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Right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Dainius Puras, submitted in accordance with Human Rights Council resolutions 6/29 and 24/6.

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Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Summary

Corruption can have a devastating effect on good governance, the rule of law, development and the equitable enjoyment of all human rights, including the right to health. In many countries health care is among the most corrupt sectors, threatening the sustainability of health-care systems worldwide. Corruption originates from power imbalances and asymmetries, is perpetuated by non-transparent decision-making and reinforces ineffective and harmful policymaking and health services provision. The present report is focused not only on those forms of corruption that are legally defined as breaking the law and should be brought to justice, but also on those practices which undermine principles of medical ethics and social justice, as well as effective and transparent health-care provision. The right to health provides a valuable normative framework and constitutes a legally binding imperative to analyse and address corruption affecting the right to health and occurring in and beyond the health sector.

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I. Introduction

1. Corruption can have a devastating effect on good governance, the rule of law, development and the equitable enjoyment of all human rights, including the right to health. Corruption has been the subject of international legal commitments as well as recent political commitments. The 2030 Agenda for Sustainable Development and the Sustainable Development Goals (targets 16.5 and 16.6) stipulate that corruption and bribery, in all their forms, should be substantially reduced by 2030 and that effective, accountable and transparent institutions should be developed at all levels.

2. While corruption manifests at many levels within societies and States, the present report focuses on the links between corruption and the enjoyment of the right to the highest attainable standard of health. Corruption in government, institutions and society at large is a significant obstacle to the enjoyment of the right to health of individuals and groups. In countries with a higher level of perceived national corruption, there is a much higher prevalence of poor health.[1] Corruption in Government and society can reduce the ability of the government to raise resources for health and other social sectors through putting off investors or donors or as a result of tax evasion.

3. In many countries health is among the most corrupt sectors.[2] Health sector corruption, including for example the bribing of health officials and unofficial payments to health-care providers, obstructs the ability of States to fulfil their right to health obligation and to guarantee available, accessible, acceptable and good quality health services, goods and facilities.[3] Yet corruption affecting health also occurs in other sectors and industries, for example, the water sector, and the food and beverages, tobacco and other industries. Moreover, corruption has significant implications for equality and non-discrimination since it has a particularly marked impact on the health of populations in situations of vulnerability and social exclusion, in particular those living in poverty and children.[4]

4. The right to health provides a valuable normative framework and constitutes a legally binding imperative to analyse and address corruption affecting health and occurring in and beyond the health sector. The framework reflects notions of good governance, transparency, accountability and participation, which are key when it comes to combating corruption. It places legal obligations on States to guarantee access to health-related goods and services for all, including individuals and groups in situations of vulnerability, and this requires them to take actions to curb corruption where it occurs.

5. The present report is the result of extensive consultations among a wide range of stakeholders, including representatives of relevant United Nations agencies, civil society and academic experts. In May 2017, the Special Rapporteur convened an

[1] Margot I. Witvliet and others, "Sick regimes and sick people: a multilevel investigation of the population health consequences of perceived national corruption", *Tropical Medicine and International Health*, vol. 18, No. 10, pp. 1240-1247; Angela Maria Pinzon-Rondon and others, "Association of rule of law and health outcomes: an ecological study", *BMJ Open* (2015), vol. 5, No. 10.

[2] Transparency International, *Global Corruption Report 2006*, part one, Corruption and health, pp. 3-22.

[3] Brigit C.A. Toebes, "Human rights and health sector corruption", in *Global Health and Human Rights*, John Harrington and Maria Stuttaford, eds. (London and New York, Routledge, 2010), pp. 102-134.

[4] Witvliet and others, "Sick regimes and sick people", pp. 1245-1246; see also Mogens Justesen and Christian Bjørnskov, "Exploiting the poor: bureaucratic corruption and poverty in Africa", World Development, vol. 58, No. C (2014), pp. 106-115.

expert consultation in Bangkok and is very grateful to those who participated and provided valuable inputs for the present report.

II. Corruption and the right to health: key issues and trends

6. Corruption is generally defined as "the misuse of public or entrusted power for private gain".[5] In relation to health, in many countries varying degrees of responsibility for public roles is entrusted to private actors, including private health professionals, pharmaceutical companies and health insurance companies. Corruption occurs in both the public and private sectors.

7. A distinction is frequently made between "grand" and "petty" corruption. Grand or "high-level" corruption refers to acts committed at a high level of government that distort policies of the central government, for example a health minister "skimming" money off a loan from a foreign country. Petty or "administrative" corruption is smaller-scale everyday corruption by low- and mid-level public officials in their interaction with citizens, for example an informal payment from patient to doctor.[6]

8. Other definitions distinguish between types of corruption, which among other forms include political and institutional corruption. "Political corruption" means manipulation by political decision makers of, for example, policies and rules of procedure in the allocation of resources, such as a government accepting a bribe in exchange for the construction of a large private hospital in the capital. "Institutional corruption" results from the normalization of behaviours that compromise truth-seeking and lead to the formation of perverse incentive structures, and thus addresses the behaviour of actors who exploit their institutional positions to influence institutional processes and actions.[7]

9. All in all, corruption is a multidisciplinary phenomenon demanding a response from many fields of study. From a legal perspective, the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) lists five acts of corruption, which can be translated as follows to the health context:

(a) The bribery of national and foreign public officials in exchange for an undue advantage;

(b) Embezzlement, misappropriation or other diversion of funds from the health budget by a public official;

(c) Trading in influence;

(d) Abuse of functions;

(e) Illicit enrichment.[8]

10. There are many other manifestations of corruption in the health sector and beyond. The present report focuses on several non-exhaustive, illustrative examples.

11. Both corruption occurring in society at large (general corruption), as well as corruption specifically occurring in the health or other health-related sectors, have a negative impact on the enjoyment of the right to health. These forms are

[5] Transparency International, "Frequently asked questions on corruption". Available from www.transparency.org/whoweare/organisation/faqs_on_corruption#defineCorruption.

[6] Transparency International, "How do you define corruption?". Available from https://www.transparency.org/what-is-corruption/#define.

[7] Lawrence Lessig, "'Institutional corruption' defined" foreword, *Journal of Law, Medicine and Ethics*, vol. 41, No. 3 (2013). Available from https://ssrn.com/abstract=2295067.

[8] Toebes, "Human rights and health sector corruption".

intertwined. Corruption in society at large may affect the regulatory environment and the efficiency of State institutions. It hinders economic growth and sustainable development as well as equitable distribution of resources.[9] It undermines public confidence in the State and may obstruct attainment of the commitments made through Sustainable Development Goal 16 to create effective and accountable institutions.

12. Corruption is particularly detrimental in that it increases mistrust on the part of all stakeholders, especially users of services, not only in the health-care system but also in the abilities and performance of local and national authorities in general. While little research has been done on the impact of corruption on health outcomes, it is suggested, for example, that countries with higher levels of corruption have higher levels of child mortality.[10]

13. Alongside general corruption, health sector corruption is widespread and has serious consequences for the enjoyment of the right to health on the basis of equality and non-discrimination. The most common forms of corruption in the health sector are selling government posts, absenteeism, bribes, procurement corruption, theft or misuse of property, fraud, and embezzlement of user fee revenue, as well as informal payments to health-care providers.[11] A range of stakeholders may be implicated in these and other corrupt practices in the health sector affecting the enjoyment of the right to health. These include but are not limited to health ministers, parliaments, accrediting and licensing bodies, public and private insurers, hospitals, health professionals and health professional associations, community health workers, pharmacists, pharmaceutical companies and biotechnology companies, medical researchers and medical research groups and patients and patient support groups.[12] As will be argued below, they all bear responsibilities with regard to the right to health.

14. Corruption is a significant challenge to the delivery of quality health care, which is central both to the right to health and to the commitment under Sustainable Development Goal 3 to universal health coverage. The health sector is extremely vulnerable to corruption at all levels — grand and petty, political and institutional — and occurring in both the public and private sectors. It is estimated that every year 180 billion euros are lost to fraud and corruption in health care globally.[13] Health sector corruption negatively affects the (financial) resources available for health care; resources that are drained through embezzlement and procurement fraud are no longer available for paying salaries, funding health-care delivery or maintenance.[14] For example, there is evidence suggesting that health sector corruption has a negative

[9] Marie Chêne, "The impact of corruption on growth and inequality" (Transparency International, March 2014); and Kwabena Gyimah-Brempong, "Corruption, economic growth, and income inequality in Africa", Economics of Governance, Springer-Verlag, No. 3: (2002), pp. 183-209.

[10] Sanjeev Gupta and others, "Corruption and the provision of health care and education services", International Monetary Fund working paper, June 2000, p. 8; see also Witvliet and others, "Sick regimes and sick people", p. 1245.

[11] Taryn Vian, "Review of corruption in the health sector: theory, methods and interventions", *Health Policy and Planning* (2008), vol. 23, No. 2, pp. 83-94; and U4 Anti-Corruption Training Course. Available from www.bu.edu/actforhealth/CorruptionInHealthforce/Reader%201.pdf.

[12] Transparency International, *Global Corruption Report 2006*, pp. 4-13.

[13] University of Portsmouth, Centre for Counter Fraud Studies and MacIntyre Hudson, "The financial cost of healthcare fraud", available from www.macintyrehudson.co.uk/sites/www.macintyrehudson.co.uk/files/The%20Financial%20Cost%20of%20Healthcare%20Fraud%20-%20Report.pdf.

[14] U4 Anti-Corruption Training Course.

effect on cancer care and care for HIV/AIDS.[15] While these trends are visible in countries at all levels of development, it is evident that lower-income countries are more deeply affected by health sector corruption and a lack of transparency. In some countries, the health sector is considered to be the most corrupt sector of all.

15. The lesser form of corruption, namely, petty corruption, is quite common in the health sector and includes informal payments from patient to health-care provider, absenteeism of health personnel and preferential treatment. These forms of corruption are also sometimes called "survival corruption", as they are exacerbated by a lack of resources in health-care settings, poor working conditions, low pay, and hierarchical structures, which drive people to engage in such acts. There is evidence that this "microform" of corruption has a particularly negative effect on the poor in society, as they are often unable to pay the bribes necessary for a certain service.[16]

16. Three main characteristics make the health sector particularly vulnerable to corruption: (a) power asymmetries or an imbalance of information, inter alia, between health-care provider and patient and between government, the private sector and rights holders; (b) uncertainty inherent in selecting, monitoring, measuring and delivering health-care services; and (c) the complexity of health systems: the large number of parties involved makes it more difficult to generate and analyse information in a transparent manner.[17] A fourth problem, sometimes termed "provider moral hazard", is that health professionals, public officials or private actors may choose to act in their own interests rather than in the interests of the rights holders towards whom they bear duties. Moreover, where health systems lack transparency, participation and accountability, a fertile breeding ground is created for corruption.

17. Health reforms introduce organizational changes that can mitigate corruption but may also open new channels for abuse. As discussed during the expert consultation held in Bangkok, transferring responsibility for public health facilities from national to local governments may make them more accountable and less corrupt, but it can also create opportunities for local officials to divert resources for personal gain. Deregulation can eliminate requirements that are exploited by public officials to charge bribes, but it can also eliminate rules and oversight that are necessary to protect the public against unscrupulous actors. Permitting doctors to combine public and private practices is often justified as assuring staffing of public facilities, but may create situations where patients cannot obtain treatment to which they are entitled in public facilities, either because doctors are unavailable or because they encourage patients to see them privately.

18. The Special Rapporteur is concerned that there is a "normalization of corruption" in health care; corruption can be so pervasive that it becomes accepted as "normal".[18] Yet these practices lead to groups and individuals being disadvantaged and to the infringement of human rights, such as access to health care on the basis of equality and non-discrimination. Changing views and perceptions in institutions and society of corruption as normal, unavoidable and justified is an important element in addressing the problem of corruption. Informal payments can be reduced by engaging with the public in a debate about the adverse consequences of corruption, with a view to changing cultural values in relation to corruption.

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[15] Saskia Mostert and others, "Corruption in health-care systems and its effect on cancer care in Africa", *Lancet Oncology*; vol. 16, No. 8 (August 2015), pp. 394-404, and Willa Friedman, "Corruption and averting AIDS deaths", Center for Global Development, working paper No. 395, February 2015.

[16] Justesen and Bjørnskov, "Exploiting the poor: bureaucratic corruption and poverty in Africa".

[17] Transparency International, *Global Corruption Report 2006*, p. xvii.

[18] Transparency International, *Diagnosing corruption in healthcare* (2016), foreword.

Codes of conduct and ethics, training and education can also be used to support responsible conduct among professionals, including avoiding corrupt behaviour, although they may not be sufficient alone for behaviour change where it is most needed. States should also take action to address other trigger factors such as low or unpaid salaries, cumbersome administrative procedures and excessive red tape,[19] as well as enhancing transparency, participation and accountability.

19. Beyond the health sector, corrupt practices that have a direct impact on the right to health have occurred in other private sector companies, including private water companies, tobacco manufacturers, food and beverage manufacturers, car manufacturers and the natural resources extraction industry.[20] Such practices include, for example, bribery of public officials and the manipulation of scientific research practices.[21] In his previous reports, the Special Rapporteur has highlighted how power asymmetries have given rise to the widespread prioritizing of specialized medicine over primary care and public health interventions, including poverty reduction, labour conditions and early childhood services (see A/HRC/35/21, paras. 21-26). Such asymmetries generate preferences for physical health care over mental health care; biomedical interventions over non-biomedical interventions; the prioritization of certain disciplines that promote expensive biomedical technologies over social sciences in public health research agendas; and limited space for civil society participation in health policymaking.

20. Although many everyday practices in health-related services may not be considered as corruption, legally speaking, their accumulation and their acceptance by various stakeholders have a detrimental cumulative effect on the performance of health-care systems and, indirectly, on individual and societal health. It is for that reason that the present report is focused not only on those forms of corruption that are legally defined as breaking the law and should be brought to justice, but also on those practices which undermine principles of medical ethics, social justice, as well as effective and transparent health-care provision. When such practices are not properly addressed, they pave the way to non-transparent decisions at all levels of policymaking, policy implementation and services provision and thus lead to corrupt environments and foster institutional corruption.

21. Mindful that the nature of corruption means that it is often difficult to distinguish intentional malfeasance from inefficiencies, errors, and differences in judgments and in priorities,[22] the Special Rapporteur underlines that enhancing transparency is particularly important not only to address clearly corrupt practices but also to address these harmful phenomena, which obstruct the enjoyment of the right to health.

22. In the context of universal health coverage, as one of the important global commitments under the 2030 Agenda, it is critical to strengthen health-care systems so that all segments of population trust primary care and primarily use this level of services for most health conditions. This would be an effective anti-corruption

[19] Jon S.T. Quah, "The normalization of corruption: why it occurs and what can be done to minimize it", Department of Economic and Social Affairs, Division for Public Administration and Development Management, Singapore, December 2015.

[20] See https://www.transparency.org/topic/detail/water; Transparency International, Policy Position No. 2, 2008, "Linking the corruption, water and environmental agendas to combat climate change", 15 February 2008.

[21] Pascal A. Diethelm, Jean-Charles Rielle and Martin McKee, "The whole truth and nothing but the truth? The research that Philip Morris did not want you to see", *Lancet*, vol. 366, No. 9479 (2 July 2005), pp. 86-92.

[22] William Savedoff, Amanda Glassman and Janeen Madan, Center for Global Development, policy paper No. 86, "Global Health, Aid and Corruption: Can We Escape the Scandal Cycle?", 2016, p. 9.

measure to help decrease the prevailing tendency whereby users of health services prefer to bypass primary care and use specialized health-care services. The Special Rapporteur welcomes recent initiatives developed and replicated in some countries through which medical doctors educate the general population against wasteful or unnecessary use of medical tests, treatments and procedures in health care. Such initiatives, inter alia, "choosing wisely", "realistic medicines" or "preventing over-diagnosis", should be supported by States as effective measures to develop rational health-care services and thus prevent unnecessary and costly use of specialized interventions.

III. Corruption and the normative framework of the right to health

A. The right to health as a legally binding obligation

23. The right to health is recognized in the Constitution of the World Health Organization (WHO) and protected by the Universal Declaration of Human Rights and international human rights treaties which are binding on States parties, including the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Additionally, regional human rights treaties and many domestic constitutions protect the right to health. These international treaties and domestic laws obligate States to take action to respect, protect and fulfil the right to health and to address corruption where it interferes with their right-to-health obligations. They should inform responses to corruption alongside other legal instruments, such as the United Nations Convention against Corruption.

24. The right to health gives rise to obligations that provide a framework for action for duty bearers, as well as a framework of reference for monitoring and accountability. The right to health is subject to progressive realization.[23] This means that many aspects of the right to health do not have to be realized immediately; rather, States must take effective and targeted measures towards the progressive realization of the right to health. However, States also have some immediate obligations, including core obligations such as the equitable distribution of health facilities, goods and services; the provision of essential medicines; access to minimum essential food, basic shelter, safe and potable water and sanitation; and the adoption of a national health strategy and plan of action on the basis of epidemiological information.[24] The Committee on the Rights of the Child has also highlighted that universal health coverage is a core obligation (see the Committee's general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, para. 72). States must adopt and enforce legislative, regulatory and policy measures to ensure that corruption does not impede the fulfilment of their progressive and core obligations.

[23] International Covenant on Economic, Social and Cultural Rights, art. 2.1; Convention on the Rights of the Child, art. 4.

[24] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, para. 43.

25. Corruption undermines the State's obligation to realize the right to health "to the maximum of its available resources".[25] Notably, embezzlement diverts financial resources from their intended purpose. Corruption also reduces the ability of governments to generate maximum resources, including through international cooperation, in the first place by making countries less attractive to donors and investment,[26] and may support tax evasion. Measures to prevent and protect against corruption offences are therefore an essential component of this obligation.

26. Moreover, since the right to health includes not only a right to health care but also to the determinants of health, it offers a road map and tools for addressing corrupt action in the health sector as well as corruption affecting the social, environmental and other determinants of health. Measures to address the right to health should be holistic and integrated, go beyond the provision of health services and be underpinned by cross-departmental commitment (see A/HRC/32/32, para. 37). It requires the improvement not only of outcomes but also of processes, for example with governance and health systems required to operate on the basis of principles including transparency, participation, accountability and non-discrimination, all of which have a particular importance for addressing corruption.

27. In recent years, a number of United Nations human rights bodies have acknowledged the negative impacts of corruption on the enjoyment of human rights.[27] By its decision 2002/106, the Sub-Commission on the Promotion and Protection of Human Rights appointed a Special Rapporteur on the impact of corruption on human rights, in particular economic, social and cultural rights. In her reports, the Special Rapporteur established that the enjoyment of both civil and political and economic, social and cultural rights are seriously undermined by corruption.[28] In a report published in 2015, the Advisory Committee to the Human Rights Council explained that a human rights perspective on the impact of corruption can move the victims to the centre of the fight against corruption by highlighting the negative impacts of corruption on the individuals and groups concerned. The human rights perspective also reveals that the State bears the ultimate responsibility for such acts. Establishing the links between corruption and human rights can promote access to human rights mechanisms to combat corruption, thus creating new opportunities for monitoring and litigation (see A/HRC/28/73, paras. 27-28 and 32).

28. When it comes to addressing corruption and a lack of transparency, the right to health is closely related to and dependent upon other human rights and fundamental freedoms that are critical to the fight against corruption, including the right to life; freedom of expression including the right to seek, receive and impart information; freedom of association; and the right to a fair trial.[29] For example, freedom of expression offers a basis for protecting whistle-blowers, which is of key importance in combating corruption, while the right to information is vital to access information including on financial transactions and decision-making processes that may reveal corruption. The promotion and protection of these rights will also therefore be vital tools to address corruption affecting health.

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[25] Magdalena Sepúlveda, *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights* (Intersentia, 2003), p. 315.

[26] Maureen Lewis, "Governance and Corruption in Public Health Care Systems", working paper No. 78 (Center for Global Development, 2006), p. 8.

[27] Office of the United Nations High Commissioner for Human Rights, "The human rights case against corruption", March 2013. Available from www.ohchr.org/EN/NewsEvents/Pages/HRCaseAgainstCorruption.aspx; and A/HRC/28/73.

[28] See E/CN.4/Sub.2/2004/23 and E/CN.4/Sub.2/2005/18

[29] Toebes, "Human rights and health sector corruption".

B. Available, accessible, acceptable and good-quality health care

29. The right to health requires that health-care goods, services and facilities be available in adequate numbers; financially and geographically accessible, as well as accessible on the basis of non-discrimination; acceptable, that is, respectful of the culture of individuals, minorities, peoples and communities and sensitive to gender and life-cycle requirements and of good quality, thus meeting all the criteria of availability, accessibility, acceptability and quality (AAAQ).[30]

30. Petty and grand corruption and institutional and political corruption can have a negative impact on the availability, accessibility, acceptability and quality of health care. When money that has been allocated to the health sector is embezzled, the availability of health services and goods is affected.

31. Corruption can also arise when States fail in their obligation to ensure that there is an adequate number of health professionals receiving domestically competitive salaries[31] as petty corruption is often used by health professionals or other local officials to make up for inadequate, or unpaid salaries, although it should also be noted that bribes and illicit charges also occur where health professionals earn adequate salaries. As well as competitive salaries, reward for correct performance can also help to tackle corruption. Absenteeism of health service staff also negatively affects availability.

32. As to physical accessibility, health sector corruption can lead to choices that are less favourable to the community, for instance as a result of bribes, health-care facilities may be built in urban or wealthy areas rather than in locations accessible to poor or rural populations.

33. In terms of affordability, health-care providers can make health-care services more expensive by demanding payments (informal or under-the-table payments), which can put treatment out of reach and be a matter of life or death, contribute to morbidity or impoverish patients and their families. The payment of bribes by patients for privileged care is common in many countries and results in discriminatory access to care, with wealthier patients likely to access care more easily than those that are too poor to pay bribes.[32] As a result of bribery in procurement processes, medicines may be more expensive.

34. In terms of information accessibility, a lack of information about rights in the health system can provide a smokescreen for corruption. Moreover, patients are vulnerable due to the so-called "information imbalance" in the health sector, with doctors being more knowledgeable about the health-care services that they provide than the receivers.

35. Corruption also infringes medical ethics, which are an essential component of acceptable health care. Lastly, in terms of quality, corruption can affect the quality of medicines, for example, when regulators are bribed to carry out less rigorous checks, or when hospital administrators purchase medicines of unknown quality.[33] Quality can also be compromised where bribes are extorted or accepted in decisions on hiring staff, or accrediting, licensing or certifying facilities,[34] in deciding which

[30] Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 12. See also A/71/304, para. 17.

[31] Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 12 (a).

[32] Transparency International, *Global Corruption Report 2006*, p. 10.

[33] Brigit Toebes, "Health Sector Corruption and Human Rights: A Case Study", in *Corruption and Human Rights: Interdisciplinary Perspectives*, Martine Boersma and Hans Nelen (eds.) (Antwerp/Cambridge/Portland, Intersentia, 2010), pp. 91-123.

[34] Transparency International, *Global Corruption Report 2006*, p. xviii.

medicines to include on essential medicines lists,[35] or to market unregulated medicines, which can increase mortality and morbidity among those affected,[36] as well as hampering disease control efforts. Nepotism, cronyism and other forms of favouritism can also compromise the quality of health and health-related services.

36. The right to health requires that States take action, including policy, legislative and budgetary action, to prevent corruption from impeding the available, accessible, acceptable and good-quality health care.

C. Underlying and social determinants of the right to health

37. Corruption compromises the ability of the State to guarantee the underlying and social determinants of health including safe drinking water, safe and nutritious food and a healthy environment, and exacerbates the discrimination and inequalities that prevail in societies throughout the world.

38. To take the example of water, around 10 per cent of water sector investment is lost to corruption. Corruption can make water inaccessible and unaffordable and affect the quality of water. In some low-income countries, corruption can add an estimated 30-45 per cent to the price of connection to a water network.[37] The increasing role played by private sector actors in water services requires the State to adopt an appropriate regulatory framework.

39. The harmful effects of the tobacco industry and unhealthy foods industry has been covered up by manufacturers and industry lobbyists, including through sponsoring research to downplay links to health problems. Misinformation, pressure and bribery from private sector actors, including the food and beverage and breast-milk substitute industries[38] and the tobacco and the polluting industries, can interfere with the obligation of governments to adopt an appropriate legislative, regulatory and policy framework to promote and protect public health.

40. Discrimination encompasses any distinction, exclusion or restriction that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms. Non-discrimination and equality are human rights obligations which are fundamental to realizing the right to health. Not only must health and other goods and services be available to all on the basis of non-discrimination, but broader promotion and protection of equality and non-discrimination are vital in guaranteeing the equitable enjoyment of the right to health.

41. There is ample research indicating that corruption and a lack of transparency exacerbate socioeconomic deprivation. Lower social groups carry a heavier burden in a society rife with corrupt elements.[39] In turn, the equal enjoyment of the right to health is deeply affected by poverty and income inequality.[40]

42. In the health sector, low-income and other groups in vulnerable situations are affected the most by corruption and a lack of transparency. Lower-income groups

[35] Mostert and others, p. 396.

[36] U4 Anti-Corruption Resource Centre, "Corruption in the health sector", U4 issue 2008, No. 10, p. 18.

[37] See https://www.transparency.org/topic/detail/water.

[38] See A/HRC/32/32 and joint statement by the Special Rapporteur and others on breastfeeding. Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20871&LangID=E.

[39] Witvliet and others, p. 1246.

[40] Committee on Economic, Social and Cultural Rights, general comment No. 22 (2016) on the right to sexual and reproductive health, para. 8.

have the most difficulty affording the informal payments that are often required to receive the medical treatment they need. In health-care settings that face a high level of corruption, the poorer sections of the population and those who live in rural areas may suffer longer waiting periods at public health clinics and are also more frequently denied vaccines than rich and urban sections of the population.[41] Health sector corruption can also lead to discrimination more directly when health-care providers and professionals treat patients differently according to their income and their contact with the medical profession.

43. There are several intersecting groups in society that suffer from corruption on other grounds. There is, for example, evidence that corruption does not affect rural areas in the same way as it affects urban areas. Women can often be particularly affected by health sector corruption. In many countries, they are more likely to use health care than men, a pattern partly explained by their increased use of services during their reproductive years. They may thus be disproportionately affected by the effects of health sector corruption, for example when they lack the money to afford informal payments necessary for assistance around childbirth. Women may also be more vulnerable to informal payments where they lack economic means, for example where they do not participate equally in the paid labour force or do not have equal access to or control of financial resources within the household. Furthermore, women constitute a large proportion of health-care personnel, and can thus be disproportionately affected when health sector corruption negatively affects the timely payment of proper wages.[42]

D. Participation, transparency and accountability

44. Meaningful participation of people in decisions that affect their health and socioeconomic well-being is a key component of the right to health and crucial when it comes to combating corruption in health care and in society at large. States' obligations under article 12 of the International Covenant on Economic, Social and Cultural Rights require that the right to participate in decision-making processes affecting their health and development must be an integral component of any relevant policy, programme or strategy.[43] Sustainable Development Goal target 16.7 stipulates the duty to ensure responsive, inclusive, participatory and representative decision-making at all levels.

45. Participation in health decision-making leads to improved health outcomes and is essential for ensuring the distribution of policies and programmes to broader segments of the population, thus making governance more accountable. Participation goes beyond merely being educated, informed or consulted. It implies a human right to actively engage individuals and groups in the development, implementation and review of policies, standards, indicators, benchmarks or legislation, particularly aimed at including the voices and needs of more vulnerable or otherwise underrepresented and especially affected populations.[44]

46. Key elements of meaningful participation with the aim of preventing and controlling corruption are the active disclosure of important health-related

[41] Transparency International, *Global Corruption Report 2006*, pp. 37-39.

[42] Toebes, "Human rights and health sector corruption", pp. 106-134.

[43] See A/HRC/32/32, para. 53; see also Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 11.

[44] See also Helen Potts, "Participation and the Human Right to the Highest Attainable Standard of Health" (University of Essex, Human Rights Centre, 2007), available from http://repository.essex.ac.uk/9714/1/participation-right-highest-attainable-standard-health.pdf; Marlies Hesselman, Antenor Hallo de Wolf and Brigit Toebes, *Socio-Economic Human Rights in Essential Public Services Provision* (Routledge, 2017), p. 317.

information and the participation of relevant stakeholders in health decision-making, including in health sector plans, in the annual budget process and in review processes for health laws, policies and programmes.[45] In the context of budgets, participation involves the engagement of a variety of stakeholders in determining the allocation of funding, as well as monitoring expenditure. Methods for realizing participation include forums and conferences, local health committees and teams, citizens' juries, public meetings, but also institutional participation, for example in hospital boards.[46] Key stakeholders include, but are not limited to, national health assemblies, community-based and grass-roots organizations, professional associations and other non-governmental bodies and civil society organizations.

47. Patients' organizations and other more empowered interest groups may exert influence on health decision-making by lobbying in favour of the prescription and reimbursement of expensive drugs or particular programmes or treatments in a health service at the expense of other treatments or programmes. Paradoxically, these activities can reinforce imbalances and power asymmetries, as they too often result in undue pressure on policymakers to invest in specialized care and vertical programmes of treatment for certain diseases at the expense of primary care and holistic medicine. Thus participation has to be carefully planned, balanced and accompanied by open and transparent planning mechanisms to ensure representation of a broad range of civil society and other key stakeholders.

48. Where there is opacity surrounding decisions at the political, macro or micro levels, corruption can flourish, go undetected and occur with impunity. Transparency unveils corruption and is inextricably linked to the right to access information, participation and accountability. Access to information and transparency laws provide a framework for addressing corrupt practices, while the regulations and monitoring arrangements are also vital. Transparency can often be enhanced by the participation of rights holders and civil society organizations in decision-making processes that may be prone to corrupt practices.

49. There are particular challenges to transparency in the health sector. Asymmetric information between providers, payers and users leads to provider or user moral hazard. Information is divided between a multitude of different actors, including regulators, payers, providers, users and suppliers, which reduces transparency. There are many varying ways to improve transparency depending on the context. For example, transparency in procurement is enhanced through public access to procurement bidding results, monitoring of the prices paid and analysis of bids.[47] Transparency in recruitment can be supported through the publication of criteria. Transparency through the promotion of information that sets out the services and treatments to which individuals are entitled and how these services are reimbursed can help minimize inequalities in access to care through corrupt practices. The publication of transparent waiting lists can negate the practice of bribery to access more rapid treatment.

50. There is a significant demand from civil society for accountability of Governments and other institutions.[48] Sustainable Development Goal 16 includes a commitment to create effective, transparent and accountable institutions at all levels. Accountability is at the heart of human rights and central to the fight against corruption. Human rights-based accountability for corruption helps reveal where

[45] U4 Anti-Corruption Resource Centre, "Addressing corruption in the health sector", U4 issue, January 2011, No. 1.

[46] Potts, "Participation and the Human Right to the Highest Attainable Standard of Health", p. 20.

[47] Transparency International, *Global Corruption Report 2006*, p. 59.

[48] Independent Accountability Panel, "2016: old challenges, new hope: accountability for the global strategy for women's, children's and adolescents' health" (2016), p. 7.

corruption has taken place and resulted in human rights abuses. Effective accountability processes are also important for the reason that they can have a deterrent effect in relation to corruption. It is therefore troubling that research suggests that accountability for corruption is rare,[49] indicating a need for governments to take concerted steps to strengthen accountability mechanisms and processes.

51. Accountability comprises three elements: monitoring ("what is happening, where and to whom (results) and how much is spent, where, on what and whom (resources)"), review ("analysing whether pledges, promises and commitments have been kept by countries, donors and non-state actors")[50] and remedies and action.[51] The rule of law, transparency and access to information, including on decision-making processes, budgets and financial transfers in both the public and private sectors, provide vital conditions which help to strengthen accountability.

52. Health systems are complex and a wide range of monitoring and review processes have a role to play in enhancing accountability for the right to health in the context of corruption. In terms of monitoring, budget monitoring, effective and accurate accounting, audits and public expenditure tracking surveys are ways of monitoring how funds have been allocated and whether they have been distributed as intended, or whether corruption may have occurred. Yet in many low-income countries, Governments lack financial and technical capacity to operate such systems in an effective way.[52] As well as monitoring of funds, monitoring of health professionals' practice and supplies is also important. The establishment of well-resourced and independent anti-corruption and fraud agencies to prevent and detect corruption, including in the health sector, can also support the monitoring dimension of accountability.[53]

53. Judicial, quasi-judicial, political and administrative mechanisms at the local, national and international levels can all play an important review function.[54] It is essential that rights holders are aware of their entitlements and that complaints procedures are simple and accessible. Independent complaints procedures are often valuable. Rights holders must be able to participate in review procedures carried out by quasi-judicial, political or administrative bodies. Moreover, whistle-blower protection in the public and private sectors for individuals in procurement bodies, health authorities, health service providers and suppliers of medicine and equipment supports review through encouraging the reporting of corruption.[55] Domestic human rights bodies, such as national human rights institutions, as well as international mechanisms such as the United Nations treaty bodies and the universal periodic review, can provide an important contribution to enhancing accountability for the right to health, including in the context of corruption.

54. Governments must take action where monitoring and review have revealed corrupt practices. Not only should sanctions be applied, but remedies must also be awarded and implemented. Accountability should not be exclusively equated with a blame and punishment model that puts front-line workers in the firing line. Rather it is better understood as reinforcing the rule of law, including the promotion and protection of the right to health in the health system. Court judgments, as well as

[49] Lewis, "Governance and Corruption in Public Health Care Systems", pp. 20 and 40.
[50] Commission on Information and Accountability for Women's and Children's Health, *Keeping Promises, Measuring Results*, p. 7.
[51] Independent Accountability Panel, "2016: old challenges, new hopes", p. 12.
[52] U4 Anti-Corruption Resource Centre, "Corruption in the health sector", p. 11.
[53] Transparency International, *Global Corruption Report 2006*, p. XXI.
[54] Helen Potts, *Accountability and the Right to the Highest Attainable Standard of Health* (University of Essex, 2008).
[55] See Transparency International, *Global Corruption Report 2006*, p. XX.

recommendations from other review bodies, can lead to actions by governments and other duty bearers producing transformative changes in the health sector.[56]

E. Role and responsibilities of non-state actors

55. Under the Universal Declaration of Human Rights, all organs of society have human rights responsibilities. It is now widely acknowledged that, while States parties are ultimately accountable for the right to health, all members of society, including health professionals and the private business sector have responsibilities regarding the realization of the right to health.[57] As indicated in the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, private actors have the responsibility to "respect" human rights.[58]

56. Private hospital and insurance boards and other institutions responsible for the financing and provision of health care or underlying determinants have an important role to play in combating corruption and lack of transparency within their organizations. They must ensure that they comply with national laws and regulations regarding corruption and human rights. They may adopt an anti-corruption strategy, including internal regulations aimed at prohibiting and preventing the diversion of budgets, medicines or medical supplies for personal advantage; the acceptance of informal payments by their health personnel; preferential treatment for well-connected individuals; the use of hospital equipment for private business; the improper referral of public hospital patients to private practices; and illegitimate absenteeism of medical personnel while being paid. When it comes to preventing informal payments, the creation of individual contracts with personnel and increased pay scales while sanctioning poor performance are recommended.[59] In the case of whistle-blowers, hospital boards and other actors should refrain from punitive actions and provide adequate protection and guarantees to safeguard their personnel and services.

57. Organizations administering health insurance schemes and insurance regulators have a responsibility to prevent embezzlement, theft and illicit enrichment from the health insurance budget and bias in favour of certain procedures, medical professionals or products due to conflicts of interests. They should avoid adverse selection practices leading to patients being refused on the basis of their health status, age, financial capacity or other factors.[60]

58. The medical profession has a responsibility to abstain from unethical and unprofessional behaviour under its professional codes, which often emphasize a commitment to integrity and non-corrupt behaviour.[61] Among other acts, the medical profession is to refrain from favouritism and other forms of preferential treatment for well-connected individuals; accepting bribes; using hospital equipment for private business; and referring public hospital patients to their private practices. They should remain independent from outside organizations that have vested

[56] Independent Accountability Panel, "2016: old challenges, new hopes", p. 11.

[57] See Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 42.

[58] See *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations publication, Sales No. HR/PUB/11/04, chap. II).

[59] Taryn Vian, "Corruption in hospital administration", in Transparency International, *Global Corruption Report 2006*, pp. 49-55.

[60] Maureen Lewis, "Governance and corruption in public health care systems", Center for Global Development, working paper No. 78, January 2006.

[61] See World Medical Association, International Code of Medical Ethics, last amended in 2006.

interests in their clinical activities. They should avoid conflicts of interest that compromise their decisions regarding the care of patients.

59. Education in the health-care sector is one important element in that regard. The doctrine of the "five-star doctor" needs to be reaffirmed to translate modern values and scientific evidence into everyday medical practice. Modern medical doctors need to be not only good clinicians but also effective community leaders, communicators, decision makers and managers. That philosophy should be complemented by a strong human rights-based approach and evidence gained from the modern public health approach.

60. While medical doctors and other health-care workers are accountable and responsible for ethical conduct and non-corrupt behaviour, it is crucial that corrupt practices and institutional corruption do not affect decisions made at the level of academic medicine. Medical schools that train future medical doctors and carry out medical research and university hospitals that provide a tertiary level of health-care services and use expensive biomedical technologies have a key role in preventing corruption in the rest of the health-care system. It is very important to use the principle of academic autonomy in a responsible way. The academic medical elite has enormous power over decision-making and when they advise policymakers on how to invest resources proper accountability mechanisms need to be in place.

61. Within the health sector, the pharmaceutical industry stands out as being particularly prone to corruption. Corrupt practices take place at all stages of the pharmaceutical value chain, including during research and development, manufacturing, registration, distribution, procurement and marketing. The key problems are a lack of objective data and understanding of corruption in the pharmaceutical sector, a weak legislative and regulatory framework, potential undue influence from companies and a lack of leadership committed to anti-corruption efforts.[62]

62. While governments have the primary duty to regulate and oversee the pharmaceutical sector, the pharmaceutical industry has a responsibility to engage with governments on the issue of corruption. It has an independent responsibility to prevent corruption throughout its value chain, inter alia, through institutional checks and balances, protection and security of medicines and the adoption of monitoring and accountability procedures such as audits and whistle-blowing mechanisms for all staff in the company.[63]

IV. Issue in focus: corruption and the right to mental health

63. The Special Rapporteur has raised the issue of the global burden of obstacles (see A/HRC/35/21) that persists in mental health-care systems globally and how this hinders the realization of the right to health. Obstacles include the overuse of biomedical model and biomedical interventions, in particular psychotropic medications; power asymmetries; and the use of biased evidence. The Special Rapporteur advocated for a shift in mental health policies and services.

64. Existing evidence shows that mental health policies and services are especially prone to ineffective and corrupt practices, as well as the use of biased evidence. These obstacles, if not properly addressed, divert mental health policies and services from the effective realization of the right to health and hinder implementation of Sustainable Development Goals, including Goal 3 and a very important target: to promote mental health and well-being.

[62] Transparency International UK, *Corruption in the Pharmaceutical Sector* (June 2016), p. 28.
[63] Ibid., p. 27.

65. Mental health policies and services illustrate how lack of transparency and accountability in the relationships between the pharmaceutical industry and academic medicine can lead to institutional corruption and have a detrimental effect on mental health policies and services, not only on a national or regional scale but also at the global level.

66. As mentioned above, institutional corruption occurs when an organization or institution is no longer sufficiently independent to pursue its stated goals or mission effectively. It occurs when systematic practices develop within an institution that are legal, accepted and normative, but nonetheless undermine its integrity. Thus, institutional corruption results from the normalization of behaviours that compromise truth seeking and from perverse incentive structures (e.g., promotions; peer-reviewed publications) that reward problematic behaviour. It is a solution-, not blame-, oriented framework — a "bad barrel" rather than a "bad apple" problem.[64]

67. Representatives of academic psychiatry and other mental health researchers can have significant and long-lasting ties to drug manufacturers yet believe that they are immune to explicit or implicit bias, provided that they disclose these ties. Similarly, journal editors can have financial ties to the same drug companies and publish these studies, also believing that their judgment is not compromised. However, there are decades of research demonstrating that scientists are not immune to guild interests and implicit bias and that transparency or disclosure of financial conflicts of interest is an insufficient solution.

68. Thus, the framework of institutional corruption highlights both the harm done and what is lost, namely, harm to patients; loss of public trust and confidence in the integrity of academic medicine; and distortion of the scientific evidence base. It exposes the economies of influence that contribute to those harms and losses and it is a call for action to neutralize those influences. Below, the Special Rapporteur reviews three main areas in the mental health field using this framework, namely, the process of development and promotion of diagnostic categories for mental health conditions, psychotropic drug research and clinical practice guidelines.

69. Because of its global reach, the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) has been referred to as the "bible" of psychiatric diagnosis and is used worldwide in psychiatric research. However, over the last decade there have been increasing concerns that the interconnected needs of the pharmaceutical industry and the psychiatric community may have played a role in the development or expansion of questionable diagnostic categories.

70. A 2006 study found that the majority of DSM-IV (fourth edition of the Manual) panel members had financial ties to drug companies and that 100 per cent of the Mood Disorders work group and the Schizophrenia and Psychotic Disorders work group had commercial ties to the companies that manufacture antidepressants and antipsychotics. Despite a disclosure policy implemented by the American Psychiatric Association one year later, the majority of individuals serving on the DSM-5 (fifth edition of the Manual) still had such ties and, as with the DSM-IV, the most conflicted panels were those for which pharmacological treatment was the first-line intervention.[65]

71. The widening of disease boundaries has medicalized normal human experience (e.g., "social anxiety disorder"), resulting in expanded markets for treatment and

[64] Lawrence Lessig, *Republic, Lost: How Money Corrupts Congress — and a Plan to Stop It* (New York and Boston, Twelve, 2011).

[65] Joel Lexchin and others, "Pharmaceutical industry sponsorship and research outcome and quality: systematic review", in *British Medical Journal*, vol. 326 (May 2003), pp. 1167-1170.

diverting attention away from the cultural, socioeconomic and political context of emotional distress.

72. Studies have revealed that commercially funded trials are up to four times more likely to report industry-friendly results than trials without such financial conflicts of interest.[66] In addition, there is clear evidence of publication bias in psychotropic drug trials; research demonstrating the ineffectiveness of a drug can be suppressed or written in a way that conveys a positive result.[67] Such publication biases result in an inflated perception of efficacy and an underestimation of the harms of psychotropic medications.

73. The Special Rapporteur observes that pharmaceutical companies have a vested interest in finding a new indication (namely, a new disorder) for their drugs when a patent expires since this allows the drug manufacturer to obtain an additional three years of exclusivity for the drug in question. Pharmaceutical companies have used "exclusivity" as an informal mechanism to effectively extend patent protection for that time period.

74. The inclusion of new disorders in DSM-5 referred to above have led some to question whether the updated edition inadvertently functioned as a vehicle for high-profit patent extensions. It was found that in the majority of clinical trials testing drugs for new DSM disorders (e.g., "Binge-eating disorder"), there were commercial ties between DSM-5 panel members and the pharmaceutical companies that manufactured the drugs that were being tested for these new disorders.[68] This is not to suggest any wrongdoing on the part of DSM panel members, but rather to emphasize the economies of influence at play and that transparency alone is an insufficient measure for systemic problems.

75. The Special Rapporteur is seriously concerned that treatment guidelines for mental health conditions are particularly vulnerable to industry capture because the absence of biological markers for mental health conditions increases clinical uncertainty and subjective judgments. Bias in such guidelines creates the potential to expose patients to harm from unnecessary treatment or from treatment that is not evidence-based and leads to a drain on resources.

76. When guidelines are produced by medical specialty groups, especially those with strong and pervasive industry ties, these groups tend to recommend market-driven treatment options (e.g. pharmacotherapy) when less expensive and safer (e.g., lifestyle change or psychosocial support) approaches are available.[69] For example, meta-analyses,[70,71] re-analyses of antidepressant clinical trial data[72,73] and

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[66] Ibid.

[67] Erick Turner and others, "Selective publication of antidepressant trials and its influence on apparent efficacy", *New England Journal of Medicine*, vol. 358, No. 3 (2008), pp. 252-260.

[68] L. Cosgrove and others, "Tripartite conflicts of interest and high stakes patent extensions in the DSM-5", *Psychotherapy and Psychosomatics*, vol. 83 (2014), pp. 106-113.

[69] Lisa Cosgrove and others, "From caveat emptor to caveat venditor: time to stop the influence of money on practice guideline development", *Journal of Evaluation in Clinical Practice*, vol. 20 (2015), pp. 809-812.

[70] Irving Kirsch and others, "Initial severity and antidepressant benefits: a meta-analysis of data submitted to the Food and Drug Administration", *PLOS Medicine*, vol. 5, No. 2 (2008).

[71] Jay Fournier and others, "Antidepressant drug effects and depression severity: a patient-level meta-analysis", *Journal of the American Medical Association*, vol. 303, No. 1 (2010), pp. 47-53.

[72] Toshi A. Furukawa and others, "Comparative efficacy and acceptability of first-generation and second-generation antidepressants in the acute treatment of major depression: protocol for a network meta-analysis", in *BMJ Open*, vol. 6, No. 7 (2016).

[73] Joanna Le Noury, "Restoring study 329: efficacy and harms of paroxetine and imipramine in treatment of major depression in adolescence", in *British Medical Journal*, vol. 351 (2015), p. 802).

narrative reviews[74] have explicitly concluded that because of the risk benefit profile, antidepressants should not be used as a first-line intervention for mild depression, as this may result in overtreatment. Nonetheless, some guidelines produced by industry-funded psychiatry specialty organizations continue to use a predominately biological framework and recommend antidepressant medication as a first-line intervention for even mild depression.[75]

77. Institutional corruption in the mental health system has several consequences. One of them is the medicalization of human diversity and misery, which expands the number of patients labelled with mental illness. According to WHO, more than 300 million people of all ages globally suffer from depression, and depression is the leading cause of disability worldwide.[76] However, some researchers have raised serious questions about the reliability of these disease burden estimates. One study concluded that poor-quality data limit the interpretation and validity of global burden of depression estimates. They warn that uncritical application of these estimates to international health-care policymaking could divert scarce resources from other public health-care priorities.[77] While industry certainly profits from a biological approach that emphasizes these disease burden estimates, the attainment of the right to health globally becomes ever more elusive.

78. It is the global burden of such obstacles, rather than the global burden of mental disorders, that should be addressed as a priority in mental health policies and services. In that connection, corruption in mental health research, education and services should be addressed as one of the most important concerns or obstacles.

79. Indeed, institutional corruption in mental health has reinforced the medicalization of emotional distress and has thereby undermined the ability of decision makers to focus on the underlying and social determinants of health and address the way in which the health of socially disadvantaged groups is determined by exposures to societal and environmental risks and resources.[78]

80. Certainly, many people are in need of mental health services and often they do not have access to them. However, all stakeholders, especially policymakers and the leadership of the psychiatric profession, must address the fact that overdiagnosis and overtreatment of milder forms of anxiety, depression, inattention, age-related cognitive decline and the like unnecessarily creates pathological identities in people and exposes individuals to the iatrogenic effects of labelling and the side effects of treatments without offering them benefit to offset the harm. Individualizing, decontextualizing and medicalizing emotional distress reinforces health disparities by reducing the capacity of health systems to serve those with more severe mental health problems — the ones, often from disadvantaged groups, who need the care the most.

81. The medicalization of the public mental health field is driven by a lack of transparency and accountability in medical education and research and leads to

[74] Baumeister H., "Inappropriate prescriptions of antidepressant drugs in patients with subthreshold to mild depression: time for the evidence to become practice" in *Journal of affective disorders*, vol. 139, No. 3 (2012), pp. 240-243.

[75] L. Cosgrove and others, "Conflicts of Interest and the Presence of Methodologists on Guideline Development Panels: A Cross-Sectional Study of Clinical Practice Guidelines for Major Depressive Disorder", *Psychotherapy and Psychosomatics*, vol. 86, No. 3 (2017), pp. 168-170.

[76] WHO, "Depression", fact sheet, 2017, available from www.who.int/mediacentre/factsheets/fs369/en/.

[77] Petra Brhlikova, Allyson M. Pollock and Rachel Manners, "Global burden of disease estimates of depression — how reliable is the epidemiological evidence?", *Journal of the Royal Society of Medicine*, vol. 104, No. 1 (2011), pp. 25-34.

[78] David R. Williams, Naomi Priest and Norman Anderson, "Understanding associations among race, socioeconomic status, and health: patterns and prospects", *Health Psychology*, vol. 35, No. 4 (April 2016), pp. 407-411.

biased evidence being translated into practice worldwide. This is an unacceptable tendency and must be addressed by States and international organizations, with a view to ensuring that mental health policies nationally and globally are driven by non-biased evidence and a human rights-based approach. The obvious crisis in academic psychiatry,[79] influenced by a doubtful relationship with the pharmaceutical industry, has contributed to what could be called the "corruption of knowledge" in mental health and represents a warning signal not only to mental health-care practice and research but to the health sector as a whole.

V. Conclusions and recommendations

A. Conclusions

82. Corruption has a devastating effect on good governance, the rule of law and equitable access to public goods and services. Corruption is a human rights concern and it has a particularly damaging effect on the enjoyment of the right to health. The health sector is especially prone to corruption, which threatens the sustainability of health-care systems worldwide.

83. The right to health offers a valuable normative framework and a legally binding imperative to address corruption in and beyond the health sector. The framework embraces the principles of good governance, transparency, accountability and participation. The right to health is closely related and dependent on other human rights, which are also important for combating corruption, including freedom of expression, which gives guarantees to whistle-blowers.

84. All forms of corruption at all levels have a negative impact on realization of the right to health. Many of these forms originate from power imbalances and asymmetries, which are widely prevalent in the health sector. Such asymmetries are perpetuated by non-transparent decision-making and reinforce ineffective and harmful policymaking and health services provision.

85. In accordance with their legal obligations under international human rights law, as well as high-level political commitments made in the Sustainable Development Goals to address corruption and develop effective, accountable and transparent institutions by 2030, States should provide leadership to confront the domestic and global causes of corruption and its impact on the right to health through legal, policy and programming measures in the health and related sectors.

86. Applying a human rights-based approach to health and related policies and avoiding selective approaches to human rights and the production and use of evidence in the realization of the right to health are the most effective measures for combating corruption.

B. Recommendations

87. The Special Rapporteur urges States to:

(a) Implement the United Nations Convention against Corruption and to explicitly criminalize the corrupt acts identified in that treaty and which are also prevalent in the health sector;

[79] Arthur Kleinman, "Rebalancing academic psychiatry: why it needs to happen — and soon", *The British Journal of Psychiatry*, vol. 201, No. 6 (December 2012), pp. 421-422.

(b) **Ensure the integration of the right to health as a standard in anti-corruption laws and policies aimed at regulating the health sector;**

(c) **Provide for comprehensive whistle-blower protection for those reporting corruption offences in the health sector and beyond, which includes guaranteeing the anonymity and protection of whistle-blowers;**

(d) **Progressively build resilient health systems, with a special focus on health promotion and primary care, so as to root out the problem of systemic incentives for corruption in health sector;**

(e) **When elements of a health sector are decentralized or handed over to the private sector, to ensure that there are sufficient checks and balances to ensure that this transition addresses corruption and, at the least, does not lead to more corruption. There must be adequate oversight, transparency and monitoring of private sector and decentralized provision;**

(f) **Raise awareness among the actors in the health sector, including health-care providers, insurers and the providers of medicines and medical equipment about the harmful effects of corruption on the right to health and insist on their responsibilities under the right to health;**

(g) **Raise awareness among the general population about the negative impact of all forms of corruption in the health sector on individual and societal health and well-being. National human rights institutions can play a role in such awareness-raising and this may include the establishment of corruption-reporting hotlines;**

Participation, transparency and accountability

(h) **Guarantee the right to participation of the population in all actions aimed at combating corruption in health, such as through the disclosure of important health-related information, as well as in the design and delivery of health programmes;**

(i) **Engage a variety of stakeholders, such as community organizations, professional organizations and civil society organizations, including those representing groups in vulnerable situations, in determining the allocation of funding, as well as in monitoring budget expenditure at the national, local and institutional levels;**

(j) **Ensure monitoring and accountability in the health sector and related sectors through the establishment of well-resourced and independent anti-corruption and fraud agencies, as well as accessible and effective accountability procedures for health system users who encounter corrupt practices;**

(k) **Ensure judicial and other forms of review of violations of anti-corruption legislation; and effective remedies where corruption leads to a violation of the right to health;**

Corruption in health-care provision

(l) **Address petty corruption by health professionals by guaranteeing decent living wages and working conditions, job security and reward for good performance and conduct;**

(m) **Prevent misuse of dual practices whereby health-care providers inappropriately refer patients to their own private practices; and take measures to reduce theft and improper billing in hospitals;**

(n) **Create awareness among health-care providers that preferential treatment of well-connected individuals is unethical and at odds with the main principles for realization of the right to health;**

(o) **Develop non-biased and evidence-based treatment guidelines to reduce opportunities for corruption;**

(p) **Create awareness, for example through the development of ethical guidelines, among health-care providers that they should remain independent from outside organizations and avoid conflicts of interest with the best interests of their patients;**

(q) **Create awareness among health system users of their rights as well as identifying and reporting corrupt acts;**

(r) **Support initiatives that prevent excessive and unnecessary use of diagnostic and treatment interventions and involve users of services in shared decision-making with medical doctors.**

88. **The Special Rapporteur also urges other relevant stakeholders to:**

(a) **Take into account the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines (A/63/263, annex);**

(b) **Address, through legal, policy and other measures, corrupt practices taking place in all stages of the pharmaceutical value chain, including during research and development, manufacturing, registration, distribution, procurement and marketing of medicines;**

(c) **Strengthen measures to address corruption and unethical practices in the process of generation of knowledge through research, dissemination of such knowledge through medical education and the development of guidelines for diagnostics and treatment of health conditions;**

(d) **Strengthen those elements in the medical education curriculum of future medical doctors that strengthen their knowledge and skills in order to prevent them from becoming involved in corrupt acts, unethical behaviour, reliance on excessive and unnecessary medical interventions, disease mongering, favouritism, informal payments and other practices that are either corrupt or increase the risk of corruption;**

(e) **Address the production and dissemination of biased outcomes of research in psychiatry and prevent, through transparent changes in medical education, research and practice, institutional corruption in psychiatry and mental health care;**

(f) **Enhance transparency and avoid misusing the principle of academic autonomy when investments in health and health care are addressed, so that the integrity of academic medicine and its commitment to the realization of the right to health is not undermined.**

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Administration of justice at the United Nations

Activities of the Office of the United Nations Ombudsman and Mediation Services

Report of the Secretary-General

Summary

In its resolution 71/266, the General Assembly reaffirmed that the informal resolution of conflict is a crucial element of the system of administration of justice and recognized that the informal system of administration of justice is an efficient and effective option for both staff and managers participating in the process.

The present report covers the activities of the Office of the United Nations Ombudsman and Mediation Services for the period 1 January-31 December 2016. The Office provides informal conflict resolution services to the Secretariat, funds and programmes (United Nations Children's Fund, United Nations Development Programme, United Nations Population Fund, United Nations Office for Project Services and United Nations Entity for Gender Equality and the Empowerment of Women) and the Office of the United Nations High Commissioner for Refugees (UNHCR), constituting the three pillars of the Office.

The report contains statistical analysis of data gathered from all three pillars, while focusing primarily on Secretariat-specific activities, including the dispute resolution services offered to staff, outreach activities to promote greater conflict competence among staff and managers and observations on systemic issues.[1]

* A/72/150.

[1] Detailed information on the activities undertaken specifically by the Ombudsman for the funds and programmes and the Office of the United Nations High Commissioner for Refugees (UNHCR) is provided in the annual reports made available on the respective intranet pages and/or websites.

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I. Introduction

A. United Nations workplace

1. The United Nations is expected to address challenging situations from peace and security to environment and health; from free trade and human rights to employment and migration management. Given its complex mandate, staff members of the Organization find themselves increasingly exposed to hardship, security risks and physical and psychological health risks. While facing those external challenges, they also find themselves in the midst of several organizational reforms with transformational impact. United Nations staff must respond to all these demands and adapt to evolving needs and realities. In that context, having a positive work environment is essential. The Office of the United Nations Ombudsman and Mediation Services provides an important institutional capacity to prevent and/or resolve workplace conflicts and promote collaboration. Internal conflicts or disputes are inherent dynamics of organizations and can result from both internal and external factors. Furthermore, conflict and disagreements are often integral to participatory governance. However, unmanaged and/or ill-managed conflicts have a negative impact on an organization, its workforce and the constituencies it serves. They pose risks that could threaten the ability of an organization to achieve its strategic objectives.

B. Impact of conflict in the workplace

2. While it is essential for managers to have a solid understanding of the strategic direction of an organization, it is equally important to have a sense of the perceptions, feelings and attitudes of the employees if the goals of the organization are to be effectively met. Low morale and lack of motivation have a significant, negative impact on productivity and workplace conflict. Successful organizations understand the needs and desires of their employees and work to create a positive environment where people can thrive.

3. In 2016, in an effort to gauge and analyse the nature and impact of conflict in the United Nations workplace, the Office conducted confidential and anonymous pre-intervention surveys in 38 Secretariat offices, departments and missions in 19 countries. The survey was sent before a field office or a peacekeeping mission was visited by the Office, to initiate dialogue and identify the main workplace issues. More specifically, the survey explored the participants' perceptions of 18 workplace dimensions, which included, but were not limited to, the general working atmosphere, career development and equal opportunities, fair treatment and levels of trust and respect in the office.

4. A total of 1,060 employees took part in the survey (see section VI. B below). The results revealed that over 60 per cent of the staff who took part had experienced a workplace conflict in the preceding three months and that a similar proportion of respondents felt levels of stress above what they considered "acceptable". In addition, the participants spent an average of three hours per week dealing with conflict (see figure I).

Figure I
Workplace conflict in the Secretariat

60% of respondents experienced workplace conflict that hampered productivity and well-being

60% of respondents experienced levels of stress above what they considered "acceptable"

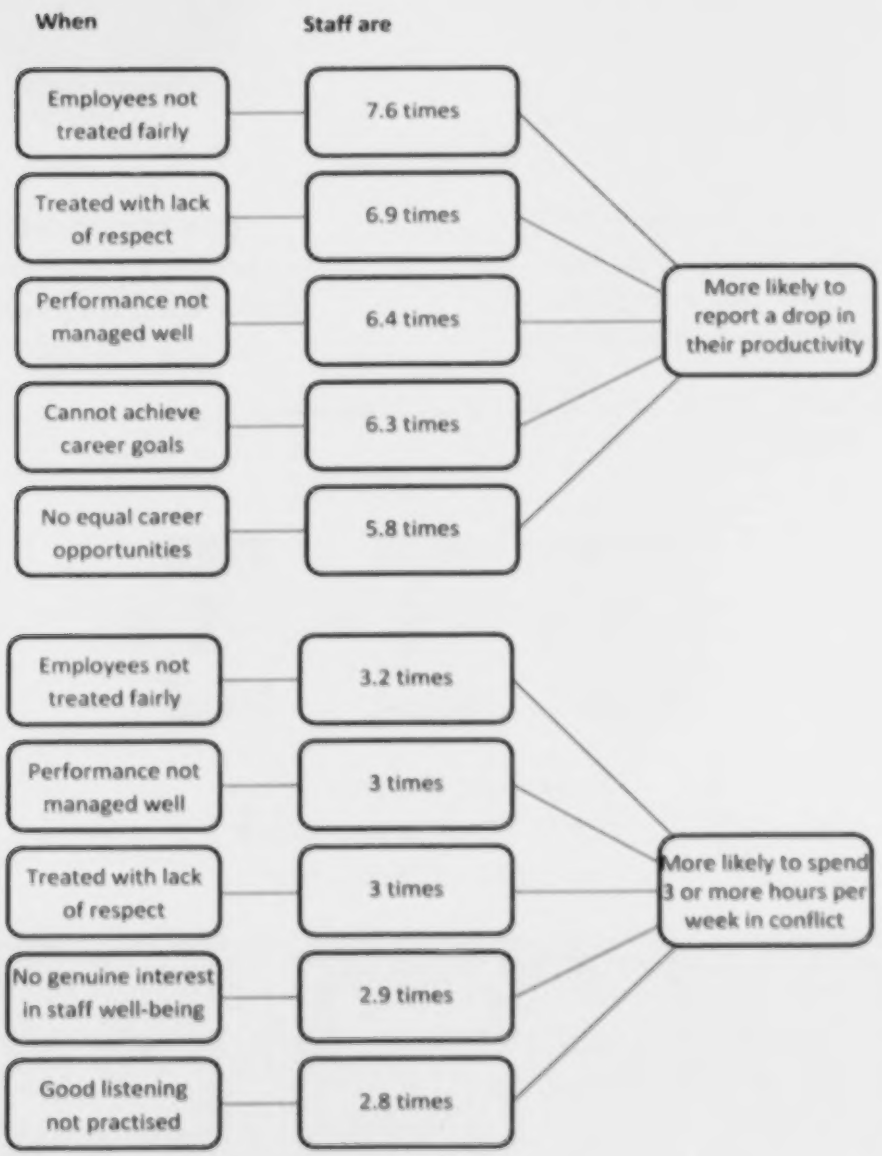
On average, respondents spent 3 hours per week dealing with conflict

Source: analysis of pre-intervention survey results on perceptions of workplace conflict, 2016
38 Secretariat offices, departments and missions in 19 countries

5. The survey identified 18 key workplace variables including fairness, respectful and effective management of low performance, listening, team spirit and respectful treatment, and calculated their risk ratio. The analysis in figure II shows the top five variables that increase the risk of conflict and loss of productivity.

Figure II

Analysis of 2016 pre-intervention survey results (1,060 respondents from 31 offices and missions in 19 countries)

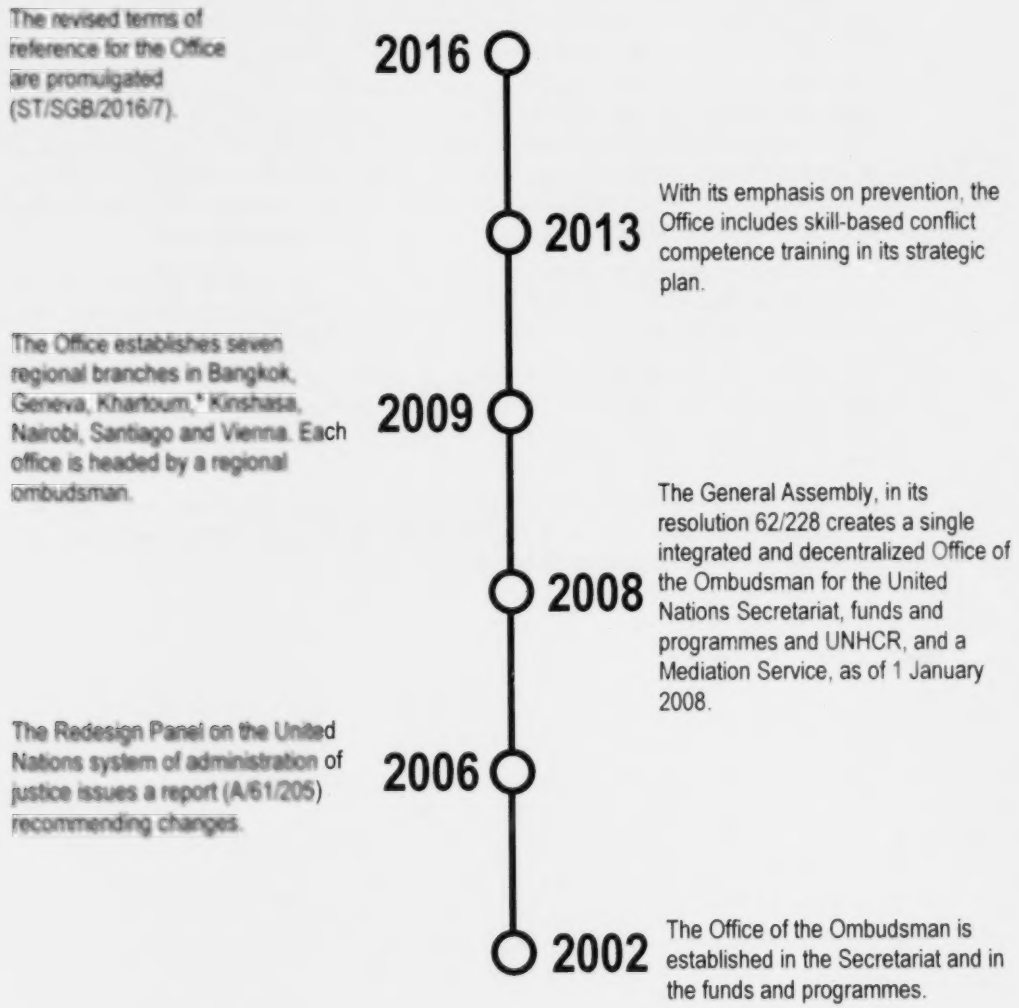


II. History, mandate and scope of coverage of the Office

6. The prevalence of conflict and its impact on productivity is common in many organizations. The current work of the Office to help address such issues began 15 years ago. In 2002, the United Nations resolved to establish a full-time, professional ombudsman programme. Its ongoing work and mandate seek to support employees as they endeavour to carry out the important mandate of the Organization.

A. Fifteen years of informal conflict resolution

Figure III[1]
The Ombudsman function in the United Nations, 2002-2016


2016
The revised terms of reference for the Office are promulgated (ST/SGB/2016/7).
2013
With its emphasis on prevention, the Office includes skill-based conflict competence training in its strategic plan.
2009
The Office establishes seven regional branches in Bangkok, Geneva, Khartoum,* Kinshasa, Nairobi, Santiago and Vienna. Each office is headed by a regional ombudsman.
2008
The General Assembly, in its resolution 62/228 creates a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds and programmes and UNHCR, and a Mediation Service, as of 1 January 2008.
2006
The Redesign Panel on the United Nations system of administration of justice issues a report (A/61/205) recommending changes.
2002
The Office of the Ombudsman is established in the Secretariat and in the funds and programmes.

*Moved to Entebbe in 2011.

7. On 15 October 2002, the Office of the Ombudsman was established in the Office of the Secretary-General (see ST/SGB/2002/12). The first ombudsman for the funds and programmes was appointed in the same year.[2]

8. In January 2006, pursuant to General Assembly resolution 59/283, the Secretary-General established the Redesign Panel on the United Nations system of administration of justice. On 28 July 2006, the panel issued its report recommending, inter alia, the establishment of a strengthened and decentralized Office of the Ombudsman.[3]

9. In its resolution 62/228 on the administration of justice in the United Nations, the General Assembly reiterated its decision to create, as of 1 January 2008, a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds and programmes and UNHCR. That decision also included the creation of a mediation service. The first joint report for the entities covered by the new Office (the three pillars), entitled Office of the United Nations Ombudsman and Mediation Services, was issued on 20 August 2009 (A/64/314).

10. The year 2009 was significant for the Office, as a regional presence was achieved through decentralization, with the establishment of seven regional offices with a dedicated ombudsman in each office. The Mediation Services, headquartered in New York, became fully operational also in that year. Furthermore, the reporting categories of the three pillars were harmonized and a common case database was adopted, working towards the harmonization of professional standards.

11. In 2012, the Office marked its tenth year of providing informal conflict resolution to staff in the Secretariat through a series of awareness-raising initiatives on the scope and benefits of the ombudsman and mediation services.

12. In 2013 a shift took place in the focus of the Office, as emphasis was put on conflict prevention. The Office included in its strategic plan the delivery of skill-based training to staff and managers with the objective of building conflict competence.

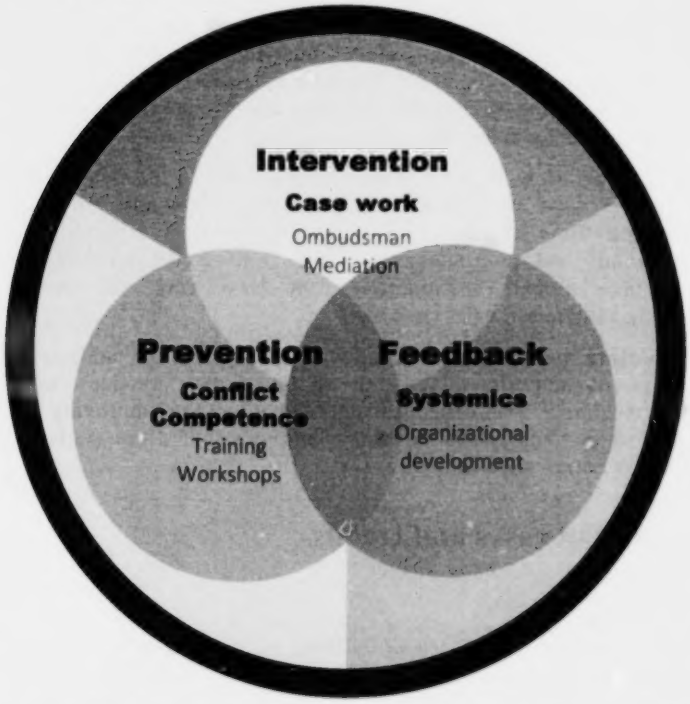
13. On 22 June 2016, following extensive consultation within its three pillars and between management and staff representative bodies, the Office welcomed the promulgation of its revised terms of reference (ST/SGB/2016/7).

[2] The first UNHCR mediator was appointed in 1993 and the position was retitled UNHCR Ombudsman on 1 January 2009.

[3] A/61/205 and Corr. 1.

B. Mandate of the Office

Figure IV
Strategic approach of the Office



14. As the designated informal conflict resolution resource, the Office is mandated to offer dispute resolution services, promote conflict competence and make recommendations for improvement based on systemic observations. The essential elements of those services are summarized below.

15. The Office offers dispute resolution services, such as facilitation, problem-solving, shuttle diplomacy, mediation and conflict coaching. Ombudsman and mediation services are provided on a case-by-case basis for individuals and/or groups, offering direct and in-person methods whenever possible and remote intervention when in-person intervention is not possible.

16. As a core part of its mandate, the Office monitors and identifies broad-based systemic issues, shares them collaboratively with key stakeholders and partners within the Organization, and makes recommendations based on its observations.

17. The Office aims to promote informal conflict resolution and develop conflict competence through thematic informational sessions and workshops, skills-building initiatives and individual coaching when dealing with cases. Conflict competence encompasses the knowledge, skills and attitudes that enable an organization and its employees to engage in conflict situations constructively at the individual level, in team settings and in the general organizational context.

C. Scope of coverage

18. The Office serves the constituencies of the following entities, grouped into three pillars, each of which was established and is administered by its respective entity or entities: (a) the Secretariat, (b) the funds and programmes and (c) UNHCR.

The funds and programmes include the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund, the United Nations Office for Project Services and the United Nations Entity for Gender Equality and the Empowerment of Women.

19. The Office, as established by the General Assembly in its resolution 62/228, has its headquarters in New York, which includes the Mediation Service. It has seven regional offices located in Bangkok, Entebbe (Uganda), Geneva, Goma (Democratic Republic of the Congo), Nairobi, Santiago and Vienna. Each regional office is served by a dedicated ombudsman.

20. The Office serves staff globally, both at Headquarters and in the field. Rapid response to cases in the field is provided by the regional ombudsmen or an ombudsman or mediator from Headquarters conducting a field mission. The ombudsmen for the funds and programmes and the Ombudsman for UNHCR provide services to their global constituencies from New York and Geneva respectively, conducting field missions as necessary.

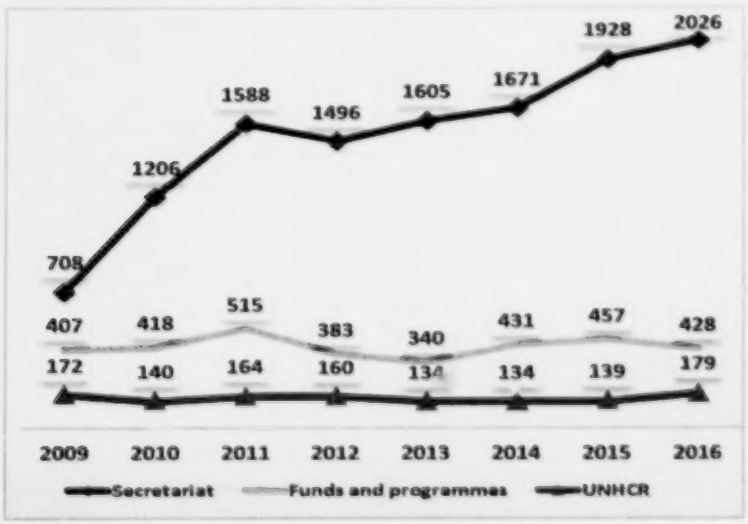
21. During the reporting period, ongoing collaborative activities undertaken between the three pillars of the Office included the sharing of best practices during regular case debrief meetings. The offices also collaborated on improving the commonly maintained case management system, enabling standardized statistical analysis and reporting on issues and trends.

III. Statistical overview of cases and trends

A. Case volume and trends

22. The Office opened a total of 2,633 cases in 2016, an increase of 10 per cent over the previous year.[4] Of those cases, 2,026 originated in the Secretariat, 428 in the funds and programmes and 179 in UNHCR (see fig. V). In the Secretariat, an overall upward trend in case volume has been observed over the last eight years. The funds and programmes and UNHCR have maintained a relatively steady case volume during the same period.

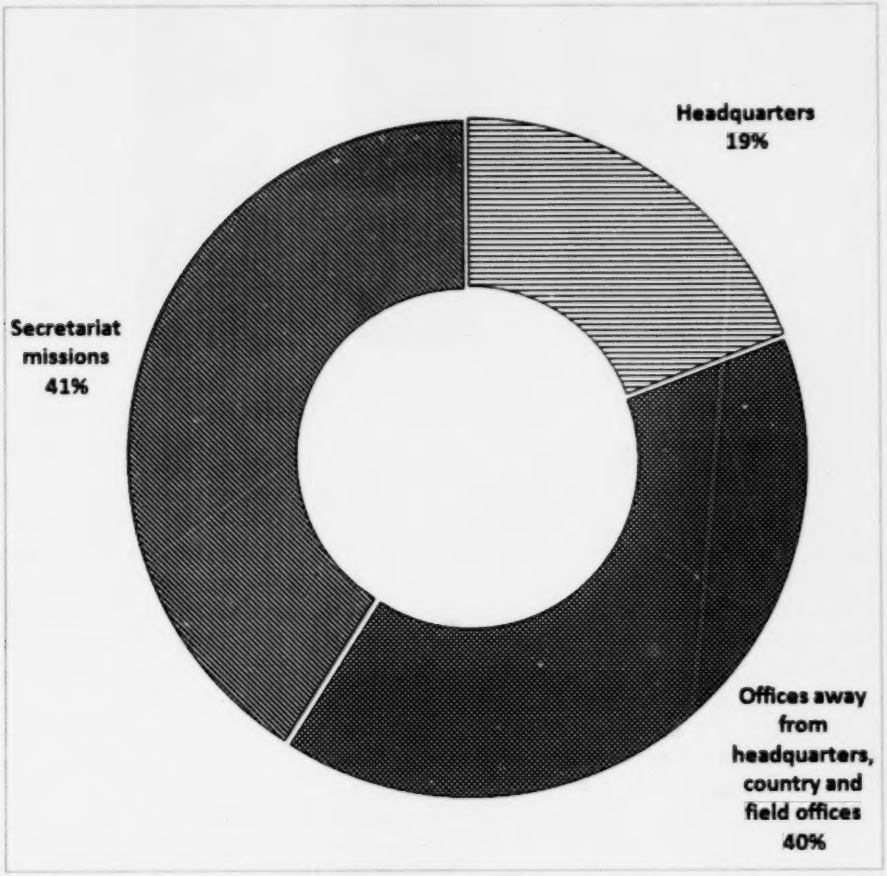
Figure V
Number of cases opened, 2009-2016



[4] Cases include all types of interventions, including mediation.

23. In 2016, 81 per cent of cases emanated from offices away from headquarters,[5] country and field offices and Secretariat peacekeeping and political missions. Of the cases received during the reporting period, 19 per cent were from headquarters locations (see fig. VI).

Figure VI
Distribution of cases by location, 2016

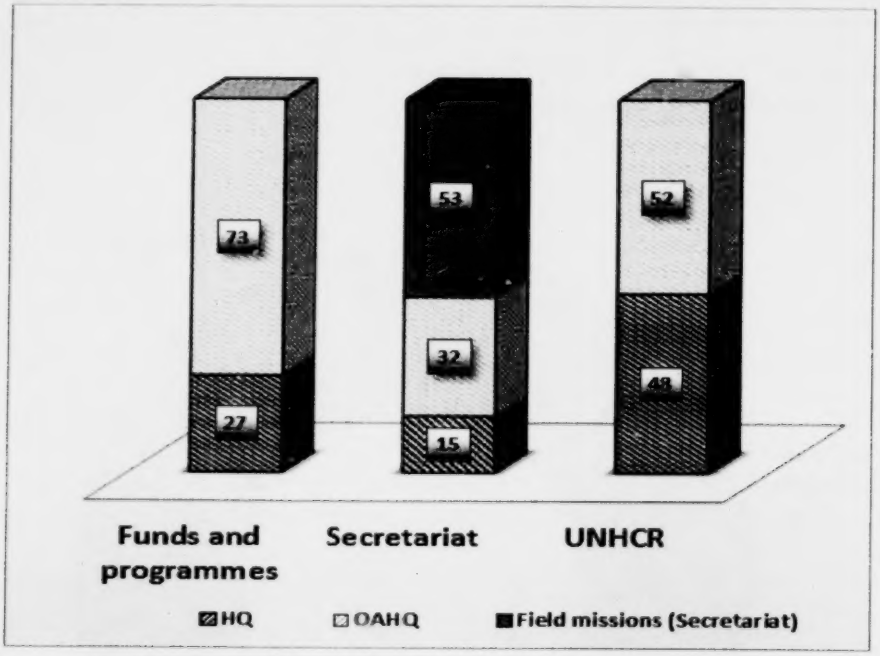


24. In 2016, for the Secretariat, 15 per cent of the cases were reported by staff at Headquarters, 32 per cent from offices away from Headquarters and 53 per cent from peacekeeping missions, including political missions.

25. For the funds and programmes, in 2016 27 per cent of the cases were from headquarters, while 73 per cent emanated from the country offices. During the same reporting period, 48 per cent of the UNHCR cases were from headquarters, while 52 per cent were from the field offices (see fig. VII).

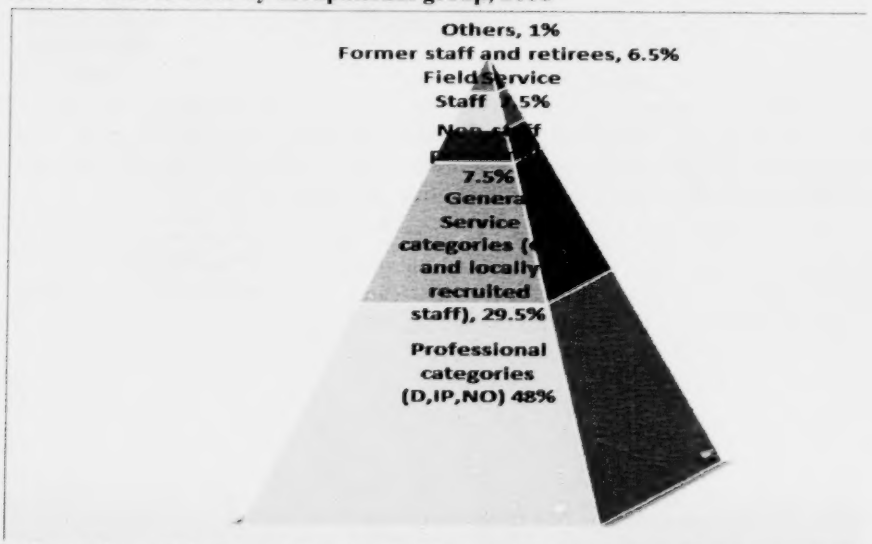
[5] Headquarters offices include New York for the Secretariat; New York and Copenhagen for the funds and programmes; and Geneva and Budapest for UNHCR. Offices away from headquarters include various field offices for the Secretariat, the funds and programmes and UNHCR. Field missions are peacekeeping and special political missions of the Secretariat.

Figure VII
Distribution of cases by location and by pillar, 2016 (percentage)



26. Of the total number of cases brought to the Office, 48 per cent were from staff in the professional categories, including international Professionals, National Officers and Directors and above; 29.5 per cent of the total were from the General Service category, including locally recruited support staff; 7.5 per cent were from field service staff; and 6.5 per cent were former staff and retirees (see figure VIII).

Figure VIII
Distribution of cases by occupational group, 2016



Abbreviations: GS, General Service; D, Director; IP, international Professional; NO, National Officer.

27. During the reporting period, 7.5 per cent of the cases emanated from categories of non-staff personnel. Section III. D below provides an analysis of the issues brought forward by this category of personnel in 2016.

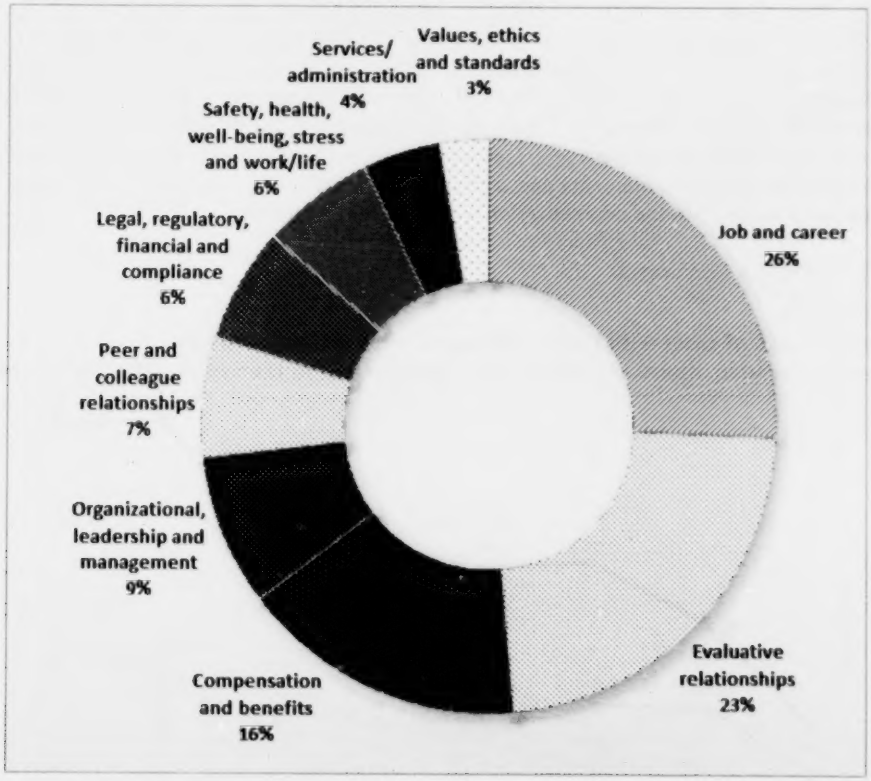
B. Issues and trends

1. Issues and trends

28. Since the Office was established 15 years ago, it has adopted a standard issue categorization system derived from the International Ombudsman Association to record and analyse issues brought forward. The system is shared by other organizations in the United Nations system.

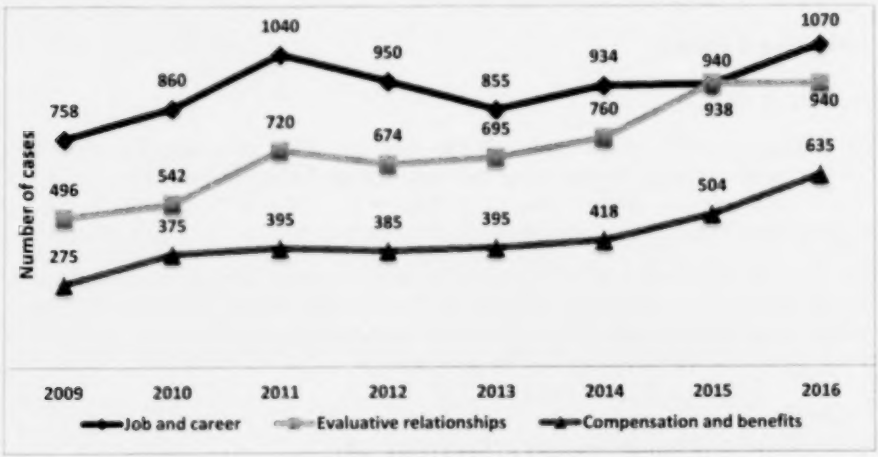
29. Figure IX provides an overview of the distribution of cases received during the reporting period by nine major categories of issues. The major categories are further divided into subcategories, which allow for more detailed analysis. An analysis of those issues and trends is found in the next section.

Figure IX
Breakdown of all issues brought to the Office, 2016


Values, ethics and standards 3%
Services/ administration 4%
Safety, health, well-being, stress and work/life 6%
Legal, regulatory, financial and compliance 6%
Peer and colleague relationships 7%
Organizational, leadership and management 9%
Compensation and benefits 16%
Evaluative relationships 23%
Job and career 26%

30. In a continuing trend from previous years, the top three issues reported to the Office in 2016 were job and career, evaluative relationships and compensation and benefits, respectively (see figure X).

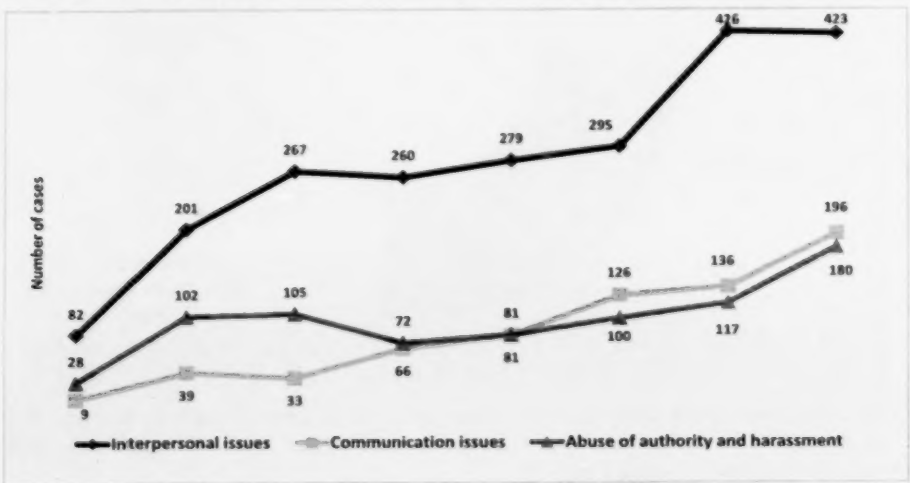
Figure X
Top three issues brought to the Office, 2009-2016



31. For Secretariat cases, an analysis of the job and career category for the reporting period shows that job application, selection and recruitment processes, career progression and opportunities, the abolition of posts and involuntary transfers/changes of assignment were the most reported issues. Evaluative relationship issues mostly involved respect, treatment and communication, as well as performance management and feedback. Pension, payroll administration, health insurance/medical entitlements and dependent benefits formed the major part of the concerns reported in the compensation and benefits category.

2. Trends in the Secretariat

Figure XI
Progression of cases with issues relating to interpersonal conflicts, communication, abuse of authority and harassment in the Secretariat, 2009-2016



32. Cases with issues pertaining to interpersonal conflicts, communication problems and perceived abuse of authority and harassment show a similar trend over time (see figure XI).

33. Issues ranging from poor communication skills to improper behaviour seem to have a link with the occurrence of interpersonal conflicts. Section V of the present report provides further systemic analysis of the issue of behaviour management and the negative impact on the Organization.

Figure XII

Progression of cases with issues relating to performance management and career development in the Secretariat, 2009-2016

34. The link between performance management and the career development of staff members is illustrated by the similarities in the trends seen over time (see figure XII).

35. When performance management and planning tools are not used to their full potential and there is a lack of adequate training, coaching and mentoring, staff members are likely to see an impact on their career progression and development. More detailed systemic analysis on this issue is found in section V below.

Figure XIII

Progression of issues: stress and leadership and management in the Secretariat, 2009-2016

36. Similarities are seen in the progression of the number of cases linked to stress and those involving complaints about leadership and management (see figure XIII).

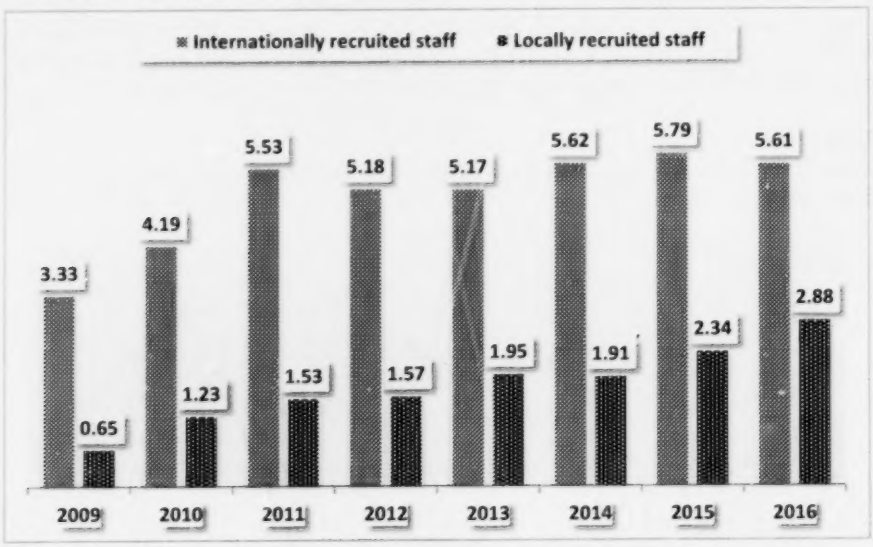
37. The leadership and management category includes concerns about the quality and/or capacity of management, leadership decisions, management styles, accountability and transparency, priority setting and/or funding. That may lead to the observation that quality of leadership and management style are factors which may impact on the psychological health and well-being of staff. That issue is further examined in section V below.

C. Utilization rates in the Secretariat

38. The utilization rate of the services of the Office shows the number of cases involving internationally or locally recruited staff as a percentage of the total population of internationally or locally recruited staff in the Secretariat. In the first group there are international Professionals, Directors (and above) and field service staff; whereas the locally recruited staff comprise General Service staff, locally recruited staff and national Professionals.

39. The utilization rate for internationally recruited staff showed a steep upward trend from 2009 to 2011 and thereafter stabilized at around 5.48 cases per 100 employees. The utilization rate for nationally recruited staff, albeit lower than that for internationally recruited staff shows a steady and significant increase over the years (see fig. XIV).

Figure XIV
Ombudsman and mediation services utilization rate in the Secretariat by category of staff, 2009-2016 (percentage)

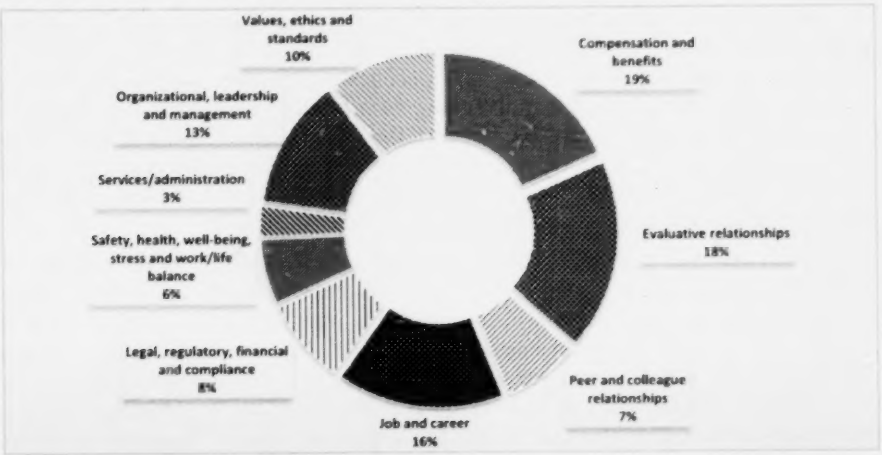


D. Issues raised by non-staff personnel[6]

40. During the reporting year, the top three areas of conflict brought to the Office by non-staff personnel were respectively compensation and benefits (19 per cent), evaluative relationships (18 per cent), and job and career (16 per cent).

41. More information on the issue of access to informal conflict resolution services for non-staff personnel can be found in section VII. B below.

Figure XV
Breakdown of issues reported by non-staff personnel, 2016


Values, ethics and standards 10%
Compensation and benefits 19%
Organizational, leadership and management 13%
Services/administration 3%
Evaluative relationships 18%
Safety, health, well-being, stress and work/life balance 6%
Legal, regulatory, financial and compliance 8%
Peer and colleague relationships 7%
Job and career 16%

IV. Mediation services

42. The creation by the General Assembly of a permanent mediation capacity at the United Nations for the informal resolution of workplace disputes was an important component of its reform of the internal justice system. It stemmed from the recognition that mediation plays a pivotal role in reconciling differences and therefore provides a more harmonious and collaborative work environment (see resolution 62/228, para. 24).

43. During the reporting year, the Mediation Service continued its engagement with key stakeholders in accordance with the priorities established in the strategic plan of the Office. In 2016, contacts were maintained with the United Nations Dispute Tribunal, the Management Evaluation Unit and the Office of Staff Legal Assistance in the context of ongoing efforts to enhance collaboration between the formal and informal systems.

44. The present section deals specifically with mediation cases, either referred by the Dispute Tribunal, or for which there was a formal agreement to mediate and, if settled, resulted in a written settlement agreement. In addition to those cases, the Office continued to facilitate dialogue between interested parties outside the structure of a classic mediation. The latter cases are not included in the analysis below.

[6] The Secretariat pillar of the Office is not mandated to serve non-staff personnel and does so only on an exceptional basis and when feasible within existing resources.

A. Mediation and the role of managers

45. At its seventy-first session, the General Assembly endorsed a set of recommendations contained in the report of the Interim Independent Assessment Panel and requested the Secretary-General to ensure their implementation, within existing resources, and to report thereon in the context of future reports (see resolution 71/266, para. 12). They included recommendation 33 of the Panel, in which it stressed the need to encourage managers to respond to mediation attempts positively and to be more proactive in initiating mediation processes (A/71/62/Rev.1).

46. Mediation is a voluntary process at the United Nations and so gaining agreement by both parties to participate in the mediation process is vital, as mediation cannot take place if one party declines to take part. By bringing parties together in a strictly confidential setting, a mediator facilitates a meaningful dialogue, allowing each party to feel that they have been heard and helping to uncover their underlying needs and interests, thus heightening the potential for an amicable resolution. The process also helps to repair working relationships and, in doing so, develops a long-lasting harmonious work environment.

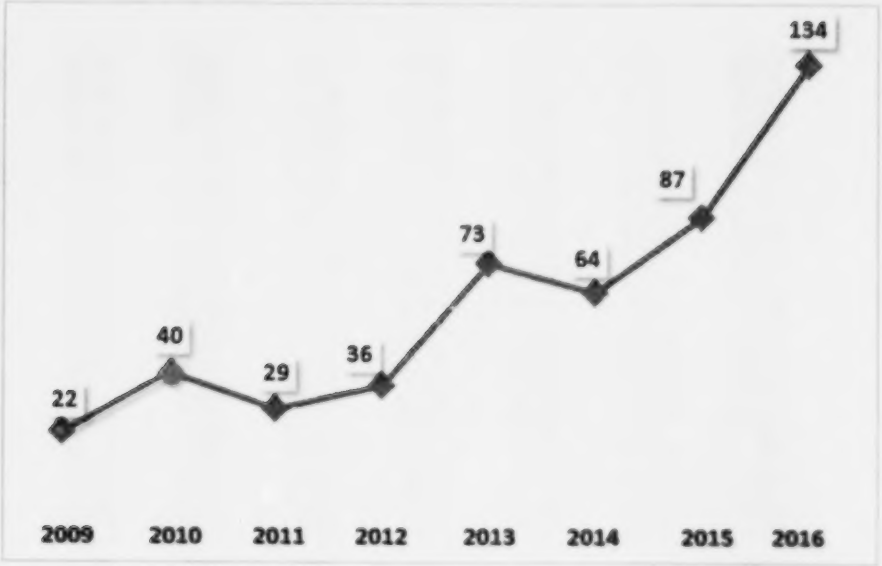
47. The challenge that often arises for managers in mediation is the process of approvals needed behind the scenes and outside the mediation, if the party representing the administration does not have the authority or the requisite delegation of authority to make commitments at the mediation table. In cases where senior officials, or representatives who have access to decision-makers, participate in mediation, the process can be very quick and a case can be completed with a successful outcome within a week. In situations where financial or other administrative measures require approval by various offices prior to the finalization of mediation, the process may take longer to close — in the range of several months — which helps to explain why extensions are sought in cases referred by the Dispute Tribunal or the Management Evaluation Unit.

48. In addition, the fact that there is a new and different manager at the table representing management in each mediation can be a challenge. There is no entity dedicated to supporting and guiding managers in mediation, specifically in terms of how their role in the process could be beneficial for the Organization, discussion about feasible solutions within the rules and facilitation of the approvals process.

B. Statistical overview of mediation cases

49. A review of trends and data since the establishment of the Mediation Service in 2009 reveals a steady increase in cases mediated, together with a better understanding of the benefits of mediation over time (see figure XVI). Although some of the challenges identified early on persist, important strides have been made in terms of laying the foundations for an efficient practice, building internal capacity and expertise in mediating workplace disputes in an organizational context and enhancing service delivery.

Figure XVI
Number of mediation cases opened, 2009-2016[7]

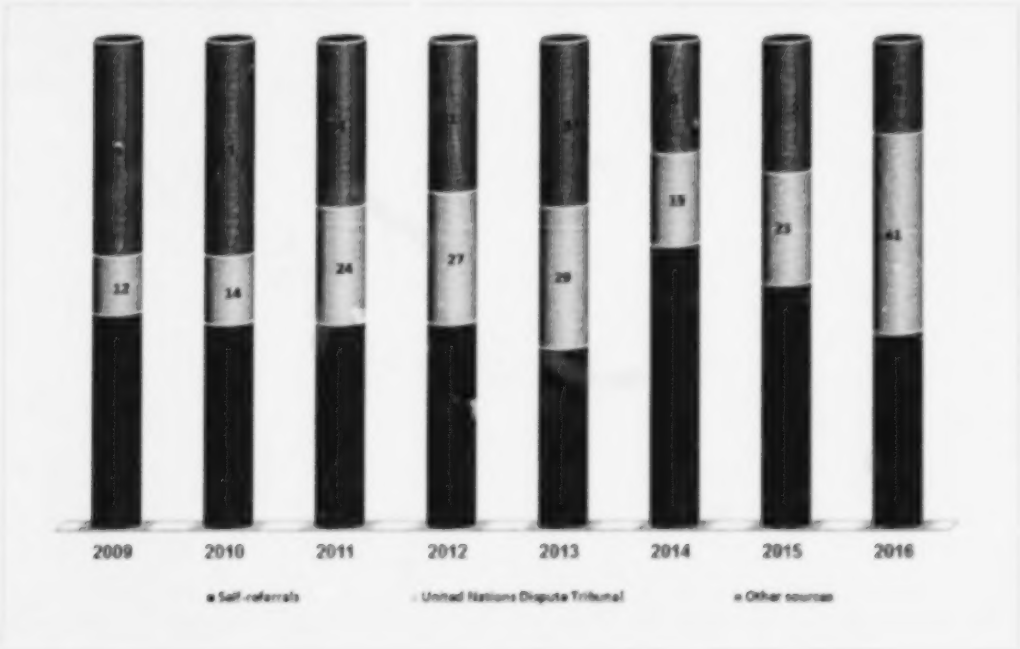


50. During the reporting period, 134 mediation cases, including 4 group processes, were opened. Of those, 97 emanated from the Secretariat, 10 from the funds and programmes and 27 from UNHCR. Mediation cases can involve two or more parties, depending on the complexity of the case. Group processes, which are documented as a single mediation case for each group, may include a variety of components, such as workshops designed to help teams enhance communication skills, team-building, individual coaching, informal resolution and the mediation of grievances. A group process can support team cohesion, boost team morale and address interpersonal or structural issues keeping the team from achieving their full potential. In 2016, four group processes were initiated by the Mediation Service, one of which is still ongoing. They included work with approximately 65 staff members, the largest group being 25 people and the smallest being 12.

51. For mediation cases in the Secretariat, the funds and programmes and UNHCR, 41 per cent (54 cases) were referred by the Dispute Tribunal (see the footnote to chart XVI), 40 per cent were self-referrals (i.e. the party or parties requested a mediation) and the remainder (19 per cent) were referred to mediation by other offices (the Ombudsman, the Office of Staff Legal Assistance, the Management Evaluation Unit and the administration, among others). The sources of mediation cases during the period from 2009 to 2016 are shown in figure XVII.

[7] The total number of mediated cases for 2015 (87), which appears as 78 in the previous report of the Secretary-General on the activities of the Office (A/71/157), has been corrected to include the figures from UNHCR and the funds and programmes. The total number of mediation cases in 2016 (134) included 53 individual orders of referral for mediation by the Dispute Tribunal, all related to similar issues triggered by a policy decision in the same peacekeeping mission.

Figure XVII
Mediation cases by source of referral, in percentages, 2009-2016[a]

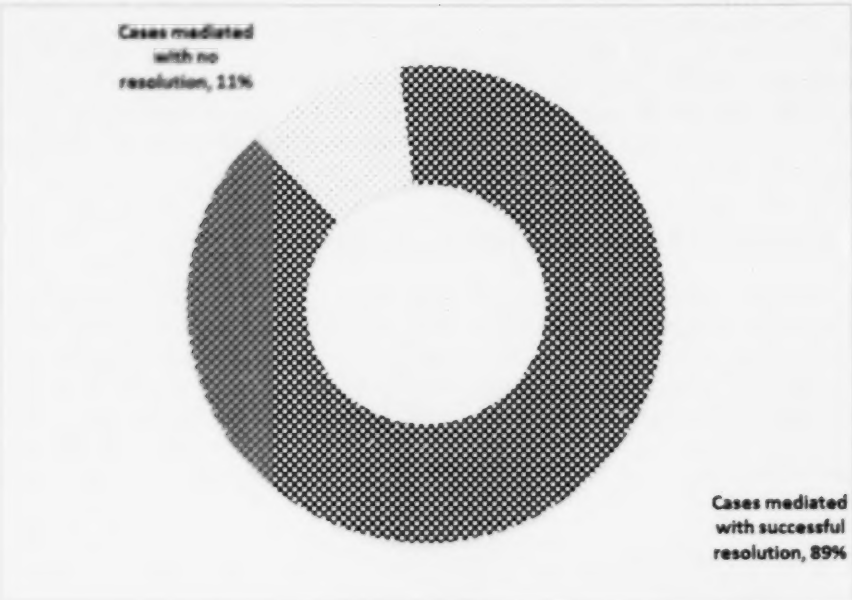


52. For the reporting year, and as in previous years, the cases dealt with by mediation were mostly related to job and career issues, followed by evaluative relationships and peer and colleague relationships.

53. Consistent with previous reports, the resolution rate of cases mediated across the Office has remained high, with 89 per cent of mediated cases in 2016 resulting in a successful outcome (see figure XVIII). Of the 134 cases opened in 2016, 64 were mediated and closed, 57 of which reached a resolution and 7 closed with no resolution. Fifty-eight cases could not proceed to mediation because one of the parties declined to mediate. Those 58 cases included 53 referrals for mediation by the Dispute Tribunal, all related to the same grievance in one peacekeeping mission. One case was resolved before mediation. Eleven cases remained open.

[a] The percentage of referrals by the Dispute Tribunal in 2016 is markedly higher (41 per cent) owing to the 53 individual referrals mentioned in the footnote to figure XVI. If the 53 cases were to be considered as one group case, the percentage of referrals for mediation by the Tribunal in 2016 would be 2 per cent.

Figure XVIII
Outcome of mediated cases, 2016



V. Root causes of conflict: systemic issues

54. Systemic issues exist independently of the individuals involved. Where recognized, they present an opportunity for the Organization to learn and effect positive change, which can contribute to preventing certain types of conflict. Many conflicts can be traced back to such issues, which may stem from gaps or inconsistencies in the policies, procedures, practices and structures of the Organization, or may be more deeply rooted, for example in the organizational culture or in a suboptimal alignment between purpose, goal and implementation.

55. Such systemic issues are identified through the cases and issues brought forward by staff, during interactions with the parties involved in conflicts, in the ongoing dialogue with stakeholders at Headquarters and in the field, and through direct observation. Such issues may require remedial measures and interventions which go beyond the resolution of individual cases and may become part of organizational development or reform.

56. The role of the Office in reporting on systemic issues can be likened to a smoke detector. It would then be for the Organization, with its access to broader information, to determine whether there is a (notional) fire and, if so, what kind of firefighting and/or fire prevention measures would be necessary, adequate and desirable. Another good analogy would be to look at the work on individual cases as being like the switch from treating an individual to addressing an issue as a public health matter. The analysis, consideration and judgment calls are similar, including as to what preventative and curative interventions should follow.

57. The Office is uniquely positioned to report on such issues, as it confidentially and impartially sees cases and meets with stakeholders throughout the hierarchy and across departments and duty stations, both at headquarters offices and in the field, including the most difficult duty stations. That allows the Office to see the system

from different perspectives, at all levels and the "points of collision" in a way that other offices cannot.

58. The fifteenth anniversary of ombudsman services in the Secretariat coincides with the first year in office of the new Secretary-General. This is therefore an opportune moment to highlight and review the systemic issues raised in previous reports that are still prevalent, in addition to noting some issues emerging in 2016. An overview of the issues reported to the General Assembly over time can be found in the table below.

A. Issues observed since the inception of the Office in 2002

59. In the present section, systemic issues are organized into two overarching groups: performance management and behaviour management, which have been problematic over time. The problem mainly arises when members of staff are not well equipped to have the difficult conversations necessary to achieve a harmonious and respectful workplace. It is useful to note, however, that addressing these issues should not require great resources and that it may be possible to achieve improvement simply by providing direction and paying attention to them at all levels.

1. Performance management

60. The Ombudsman has consistently reported on this issue and its various permutations. References to those reports can be found in the table below.

61. One core issue is that managers and staff at all levels often expend time and energy by going through the motions of the performance management system without fully optimizing the performance planning and management process at the departmental, office, service, unit and individual levels. It may seem more "efficient" in the moment, but has an impact on the Organization and individual staff members further down the line.

62. Part of the issue may be that managers and staff often do not seem to have the ability, or the incentive, to use the planning and management tools provided to them in a more meaningful way. The way in which the Organization holds its managers accountable for doing a good job in performance management could be greatly improved. The Office of Human Resources Management has already started to address performance management as an issue of behaviour change and organizational culture, instead of treating it solely as an issue of compliance with an administrative process. That is a promising and innovative way forward, as it addresses a real concern previously not tackled across the whole Organization. That approach can achieve its goals if it is embraced at the top level. The importance of the tone from the top in this respect has been highlighted in previous reports.

63. If the Organization values good management, it will express that in how it recruits, places, promotes, evaluates, assesses, develops and rewards good managers individually, and how it designs the incentive system for performance and behaviour management overall.

64. Another related issue is that managers seem reluctant to use performance management tools to legitimately point out shortcomings and encourage staff development, based on the experience of staff resisting such efforts by resorting to claims of harassment and abuse of authority. Conversely, staff members have reported that they sometimes feel that the performance evaluation is used inappropriately as a threat, rather than as a good faith effort to provide honest feedback for developmental purposes.

65. That points to a lack of a culture of dialogue within the context of performance management. It also points to the need to define harassment and abuse of authority better. Indeed, staff and managers — first and second reporting officers alike — may benefit from even more guidance on using the current performance management tools effectively and appropriately, so that there is no room for mistaking good faith management for improper abuse of authority. In particular, the steps built into the process to foster regular dialogue should be used to address any questions or differences as they arise. That way, there would not be a real or perceived need for anyone to resort to claims of wrongdoing in the context of performance management.

66. The concern about quality performance management in terms of the process and performance evaluations, involves both fairness to staff and risk mitigation for the Organization. In the context of downsizing missions, performance evaluations are a contributing factor to decisions about who stays, who can be placed elsewhere and who has to leave the Organization. If evaluations are not fair in relation to each other, the result may be that the Organization retains those with better evaluations to avoid exposure, even if that does not necessarily result in retaining the best staff. This issue also engages the leadership in general and second reporting officers, as managers of managers, in particular.

67. Good communication and people skills should be part of managerial skills, as should basic conflict-resolution skills. At the implementation level, performance management becomes a series of conversations, from work planning to regular feedback and other work discussions, from changes to the plan, coaching for development and to address underperformance. Some of those conversations are difficult for both managers and staff alike, which can lead to conflict. To address this, in cooperation with the Office of Human Resources Management, the Office piloted performance management clinics in 2016.

68. The clinics consisted of workshops and individual sessions, addressing the interpersonal complexities of the performance management process in a multicultural environment and focusing on strengthening the ability of both staff and managers to engage in meaningful exchanges in the context of conversations about performance. This concerted initiative was complementary to the workshops held by the Office of Human Resources Management on the application of policies, procedures and best practices in performance management. The clinics, attended by both supervisors and supervisees, provided support for the 2016/17 midpoint review. Additional workshops have been developed and will be delivered at headquarters offices and some offices away from headquarters for consecutive parts of the performance review cycle.

2. Behaviour management and accountability

69. The Office has reported on the connection between promoting and effectively enforcing a workplace free of misconduct, including harassment, discrimination and abuse of authority, and an efficient and credible investigation capacity to correct, or even deter, such occurrences. It is also important to counteract the perception that there is impunity for bad behaviour at all levels of the Organization, including at senior levels. When such behaviour persists without accountability, it can effectively result in permitting such behaviour by others and deterring its reporting. The Office reported on the fear of speaking out and its damaging effects on departments and the Organization as a whole in its previous report (A/71/157).

70. Examples of such abusive behaviour include yelling, bullying and intimidation. It is important for the Organization to continue to take steps to

encourage colleagues and managers to report such behaviour and to actively promote a culture where all staff are treated with respect and dignity at all levels.

71. This issue also plays an important role in the sometimes tense relations between internationally and nationally recruited staff in missions, where it can translate into security issues, or become an impediment to political access in host countries, as national staff are often well connected to the political elites of all sides with which the Organization needs to be working.

B. Emerging issues to be observed

72. Increasing pressures affecting staff productivity, health and morale include the following:

(a) Increasing stress levels beyond acceptable levels may be a factor in a perceived decrease of civility at the workplace resulting in sometimes overt confrontations between staff members;

(b) There may be a need for leadership to find the appropriate balance between, on the one hand, a duty of care for those who have been overexposed to stressful situations and are breaking down or burning out, which leads them to act inappropriately and, on the other hand, protection of the victims and firm boundary-setting along the values and norms of the Organization. In that regard, the leadership should take an active role and the burden of dealing with the behaviour of overwhelmed managers should not fall on the staff under their supervision;

(c) It has also been observed that managers increasingly struggle to keep up with a situation of growing demands and decreasing resources. This leads to misunderstandings and conflict at various levels and has a negative impact on staff morale and productivity;

(d) The already tense situation mentioned above is sometimes compounded by competing or even contradictory demands, because the various reform efforts do not appear to be optimally coordinated. More resources may be required to manage the important and transformational changes the Organization is undergoing;

(e) The importance of change management and communication strategies and the corresponding managerial skills, especially as regards downsizing in missions, cannot be overemphasized. Good change management that has the whole system in mind serves to optimize and secure the investment made by the Organization in change and helps affected staff to transition to a new situation, while respecting their dignity and contractual rights.

C. Staff survey

73. The Ombudsman commends the efforts of the Organization to solicit the views of staff on their workplace through a survey at large. The survey results could help to establish a global baseline on workplace conditions, as well as perceptions on productivity and workplace conflict, including its costs. With this effort under way, there may be an opportunity to design a strategy and recommendations based on the overall results.

Major systemic issues reported by the Ombudsman to the General Assembly

Issue	*Reference*
Selection, recruitment, placement and mobility	A/60/376 (para. 37); A/61/524 (paras. 58, 59, 60, 62-66); A/62/311 (paras. 41, 42, 43, 44, 45, 70); A/63/283 (paras. 42, 45 46, 47, 48, 50, 51, 60); A/64/314 (paras. 60, 61, 62, 76-81); A/65/303 (paras. 59-66); A/66/224 (paras. 59-66); A/67/172 (paras. 110, 111, 115)
Job and career	A/60/376 (para. 37); A/64/314 (para. 56); A/65/303 (paras. 59-66); A/66/224 (paras. 59-66); A/67/172 (paras. 110, 111); A/70/151 (para. 81)
Leadership	A/60/376 (para. 37); A/64/314 (paras. 66-71); A/65/303 (paras. 73-77); A/66/224 (paras. 84-86); A/67/172 (paras. 117-119); A/68/158 (paras. 64-66); A/69/126 (para. 53); A/70/151 (para. 67); A/71/157 (para. 88)
Performance management	A/60/376 (paras. 37, 46); A/61/524 (paras. 61, 74); A/64/314 (paras. 57, 58, 59); A/65/303 (para. 75); A/66/224 (para. 70); A/67/172 (paras. 107, 109-127, 130); A/68/158 (paras. 61-66); A/69/126 (paras. 52, 53, 57); A/70/151 (paras. 67, 81); A/71/157 (para. 46)
Behaviour management	A/64/314 (paras. 69, 74); A/65/303 (para. 78); A/66/224 (para. 69); A/67/172 (para. 121); A/68/158 (paras. 61, 67-69); A/69/126 (paras. 45, 56); A/70/151 (paras. 63-70); A/71/157 (para. 82)
Fear of speaking out	A/60/376 (para. 37); A/63/283 (paras. 40, 52); A/64/314 (para. 73); A/65/303 (paras. 72, 78); A/66/224 (para. 92 (2)); A/68/158 (paras. 70, 73, 74); A/71/157 (paras. 75-80)
Investigation	A/61/524 (paras. 53, 56); A/63/283 (para. 52); A/64/314 (paras. 72-75), A/65/303 (para. 83); A/66/224 (paras. 81-83); A/67/172 (paras. 121, 140-142, 145, 146); A/68/158 (paras. 61, 67-69, 72); A/69/126 (paras. 54, 55, 57); A/70/151 (paras. 71-73); A/71/157 (paras. 81-83)
Organizational reform, leadership and change management	A/61/524 (paras. 51, 53, 54); A/64/314 (94); A/65/303 (paras. 67, 75); A/66/224 (paras. 76, 84-86); A/67/172 (paras. 115, 122, 133, 134); A/70/151 (paras. 83-86); A/71/157 (paras. 73, 74)
Duty of care	A/61/524 (para. 67); A/62/311 (para. 52); A/64/314 (paras. 88-91); A/65/303 (paras. 94, 96, 97); A/66/224 (paras. 87, 90-92); A/68/158 (paras. 78-81); A/69/126 (paras. 48-51, 64); A/70/151 (paras. 78, 79); A/71/157 (paras. 58-65)
Mental health	A/61/524 (para. 67); A/62/311 (para. 52); A/64/314 (paras. 86-91), A/65/303 (paras. 91-97); A/66/224 (paras. 87, 90-92); A/67/172 (paras. 91-93); A/70/151 (para. 67); A/71/157 (paras. 58, 59)
Partial medical clearances	A/66/224 (paras. 90-92); A/68/158 (paras. 61, 78, 79); A/69/126 (paras. 48-51); A/71/157 (paras. 66-69)
Sick leave administration	A/66/224 (paras. 91, 92); A/68/158 (paras. 78-82); A/71/157 (paras. 66-69)
Entitlements and benefits	A/60/376 (para. 37); A/61/524 (paras. 69, 72); A/64/314 (paras. 82-85); A/65/303 (paras. 85-89); A/66/224 (paras. 76-80); A/69/126 (paras. 43, 45, 49); A/71/157 (paras. 63-65, 70, 74)
Administration issues	A/60/376 (para. 37); A/61/524 (paras. 72, 73, 74); A/62/311 (paras. 47, 48, 50); A/63/283 (paras. 43, 49); A/64/314 (para. 51); A/65/303 (paras. 60, 65); A/66/224 (paras. 74-80, 87, 92); A/67/172 (para. 160); A/69/126 (paras. 50, 53); A/70/151 (82); A/71/157 (paras. 64, 68, 70-74)

Issue	*Reference*
Gender equality	A/60/376 (para. 37); A/61/524 (para. 58); A/64/314 (paras. 82-85); A/66/224 (para. 62); A/67/172 (para. 96); A/71/157 (paras. 84-89)
Diversity	A/60/376 (para. 37); A/66/224 (para. 73); A/67/172 (paras. 109, 113); A/71/157 (para. 88)

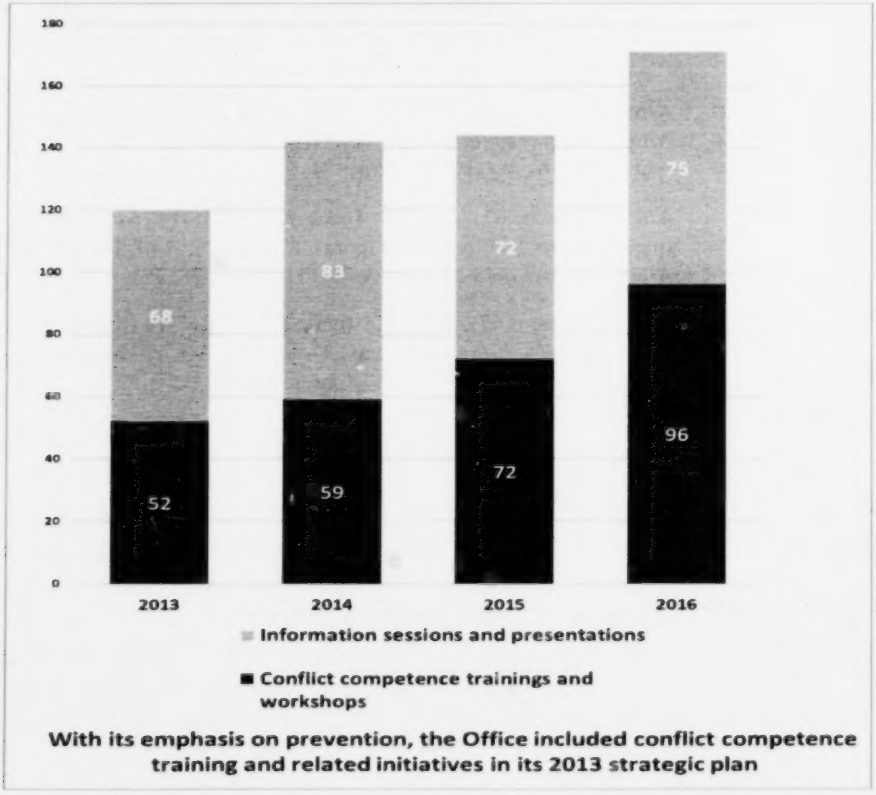
VI. Outreach activities and partnership-building in the Secretariat

A. Outreach activities in 2016

74. In paragraph 22 of its resolution 71/266, the General Assembly encouraged the Office to intensify its outreach activities. In paragraph 25 of that resolution, the Assembly emphasized the importance for both staff and managers of understanding and adopting conflict competency skills in order to prevent conflicts, cope with potential or actual conflicts and maintain resilience.

75. In 2016, the Office conducted a total of 354 outreach activities, which included 171 workshops, training sessions, information sessions and presentations, targeting over 4,000 staff, and 170 meetings with senior officials and partnership consultations with internal and external stakeholder groups (see figure XIX).

Figure XIX
Skill-building activities in the Secretariat, 2013-2016



76. As the demand for informal conflict resolution grows, the Office continues to expand its outreach activities, partnership mobilization and conflict competence initiatives to promote and inform staff of the benefits of informal conflict resolution in the United Nations system and strengthen the skills and understanding of staff on how to deal effectively with workplace conflict.

77. The bulk of activities can be categorized as follows:

(a) Information sessions which include presentations, town hall meetings and inductions, mostly in the format of briefings containing question-and-answer sections. The main purpose is to provide information about the Office and informal resolution, including some elements of conflict competence;

(b) Conflict competence training sessions and workshops, which are a combination of lectures, exercises and other interactive elements that aim to help participants understand the nature and sources of workplace conflict and explore practical approaches for dealing with it;

(c) Meetings with senior officials and internal and external stakeholder groups, which form part of the partnership and stakeholder engagement efforts of the Office. These meetings include senior officials at the policymaking and decision-making level, officials dealing with administration, such as in the Office of Human Resources Management, the Department of Field Support or peacekeeping missions, the formal system of administration of justice, staff associations, medical services and staff counsellors.

78. As part of the outreach strategy implemented in 2016, the regional office in Vienna, in cooperation with the United Nations Office at Vienna, hosted a conflict resolution day at the Vienna International Centre in June and organized a series of skills-building workshops focused on the themes of emotions, change and cooperation in a diverse work environment. The workshops offered invaluable insights and strategies for maximizing the ability of staff and managers to work productively together and improve communication.

79. The regional office in Bangkok organized three workshops in Cambodia for staff of the United Nations Assistance to the Khmer Rouge Trials, providing them with tools to address unwanted behaviour in the workplace and to give and receive feedback effectively. In addition, a workshop focusing on the guidelines for managers set out in the Secretary-General's bulletin on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5) was conducted for a small group of stakeholders. Feedback received from participants in all three workshops was exceedingly positive.

80. In April 2016, at the request and initiative of the United Nations Multidimensional Integrated Stabilization Mission in Mali, the regional office in Goma, Democratic Republic of the Congo, conducted in Bamako a bilingual (French and English) four-day training course for trainers on resilience, which included conflict resolution and negotiation competence. The course was aimed at strengthening the ability and confidence of staff members to prevent, minimize or resolve disputes at their workplace. It provided participants with the tools to understand and approach disputes or conflicts covering specific topics, such as giving and receiving feedback and dealing with criticism constructively, in addition to presenting the kind of services the Office offers. The training targeted 20 peer-helpers in the mission and their feedback was excellent.

81. During a mission in Abyei in March 2016, the regional office in Entebbe, Uganda, invited staff of the United Nations Interim Security Force for Abyei to a conflict competence workshop on effective conflict management. The same workshop was organized for staff in Kadugli, Sudan, and Gok Machar, South Sudan.

During each session, a short presentation was conducted on the mandate and role of the Office. Feedback from participants revealed a high level of satisfaction with the workshop and included a request to hold such workshops regularly, since the session had been helpful in addressing workplace concerns.

82. As part of its outreach mission, the regional office in Santiago visited nine countries where 23 half-day workshops were organized. The sessions, entitled "Management and prevention of abuse and harassment in the workplace", "Conversational tools and workplace conflict prevention" and "Effective and happy teams" aimed to increase staff knowledge of the Standards of Conduct, clarifying the role of the Ombudsman and providing practical conflict resolution tools, such as the "Take 5" conversation. The sessions were attended by a total of 367 staff. Over 90 per cent of participants felt that the tools presented during the sessions would be very useful for managing conflict in the workplace.

83. Workshops on managing conflict effectively and mediation skills to manage conflict for staff, managers and supervisors were conducted by the regional office in Geneva for the United Nations Office at Geneva and the Office of the United Nations High Commissioner for Human Rights. The workshops were aimed at strengthening the ability and confidence of staff members to prevent, minimize, or resolve disputes at their workplace. Participants were provided with tools for understanding and how to approach disputes or conflicts.

84. The Secretariat office in New York conducted a series of monthly induction and conflict competence sessions that were open to staff members across Headquarters. Conducted as ongoing monthly sessions, the workshops were well attended and received excellent feedback. The promotion and presentation of the workshops provided participants with useful tools for managing conflict in the workplace and helped to raise staff members' awareness of the Office, its principles and services. The Office plans to continue these sessions in 2017.

B. Innovative measures to expand impact and reach

85. The Office has expanded its strategic use of data and multilingual surveys and questionnaires as tools for receiving feedback and spotting trends and patterns. The information thus gathered enhances the ability of the Office to develop customized services, tailoring training programmes to the needs of the various headquarters offices, field units and peacekeeping missions.

86. In addition, the Office utilizes tools to measure workplace factors that have an impact on workforce resilience, particularly in areas related to stress, conflict and productivity.

Pre-intervention surveys

87. The Office has strengthened the design and implementation of pre-intervention surveys, which are conducted before a field office or a peacekeeping mission are visited. The survey aims to initiate dialogue, identify the main workplace issues and gauge the level of awareness of staff of informal conflict resolution. Another purpose of conducting a survey prior to a conflict resolution mission is to detect ongoing workplace conflicts, prevalent issues and the time spent on dealing with such issues. That information is helpful for designing training, workshops and outreach materials for each department, field unit or peacekeeping mission and enables the Office to provide customized responses to staff.

88. In 2016, the confidential and anonymous pre-intervention survey was sent to 38 Secretariat offices, departments, and missions located in 19 countries in Africa,

Asia, Latin America and the Caribbean, and at Headquarters: 1,060 individuals answered the questionnaire. The findings are detailed in section I.B of the present report.

Focus group discussions

89. The Office organized a series of focus group discussions, led by an ombudsman or mediator, across different offices of the Secretariat in several regions. The aim was to understand better the factors that contribute to workplace conflict, to discover how workforce resilience is affected by stressors and conflicts, and to explore the link between conflict and productivity. The expected outcome was the collection and analysis of data that would help to identify ways for staff, managers and the Organization as a whole to deal with conflict factors more effectively.

90. Seventeen focus groups were conducted in 2016 and in total, 139 staff members took part. The discussions in each of the groups explored the determinants and impacts of workplace conflicts and the different ways to prevent or reduce those conflicts.

C. Strengthening partnerships within the Secretariat

1. Engagement with stakeholders

91. The engagement of the Office with the Office of Human Resources Management, in particular with the leadership, learning and organizational development services, was further strengthened by collaborating on a variety of issues to ensure that systemic feedback by the Office would be taken into account, as necessary. Those issues included leadership, performance and behaviour management, gender equality, the interplay between formal and informal justice and the role of human resources. Beyond regular quarterly meetings, the collaboration included presentations on systemic issues to the annual Learning Officers conference to leverage the potential of the participants to be "multipliers" in bringing about systemic change for selected issues reported by the Ombudsman.

92. Examples include leadership and management training, promoting a workplace free of discrimination, harassment and abuse of authority, and the inclusion of unconscious biases in the diversity and inclusion training programmes. Similarly, the Office gave a presentation at the Global Human Resources Conference, held from 13 to 15 June 2016 in New York, on delivering services, sharing how poor performance or behaviour management impacts the delivery of services within the Organization and how the Office can offer support.

93. The Office continued to collaborate with the Department of Field Support through regular meetings and information exchanges regarding developments that affect staff in peacekeeping missions.

94. The Office continued its regular engagement with the Ethics Office on areas of mutual interest, including collaborating on the United Nations Leadership Dialogue 2016.

95. Of particular importance in 2016 was the institutionalization of a stakeholder forum at the United Nations Office at Geneva, under the leadership of the Director-General and constituted by the Human Resources Management Service, the Office of the Staff Counsellor, the Medical Service, the Centre for Learning and Multilingualism, the Staff Coordinating Council (staff union) and the Office of the Regional Ombudsman for Geneva. Other offices are also invited to participate,

depending on the issues on the agenda. Meetings are chaired by the regional ombudsman or the Staff Counsellor in his absence.

96. The Office maintains regular contact with national staff associations at various duty stations, the Field Staff Union and other staff representatives to discuss issues affecting staff at large or in specific locations, areas requiring improvement or where progress may have been made to address previously raised issues. The Office also engages with staff representatives in conducting its outreach activities, delivering training sessions and other activities described earlier in this section.

97. The Office continued to engage with other ombudsmen in the United Nations system through the Network of Ombudsmen and Mediators of United Nations and Related International Organizations. During its annual meeting held in Vienna in 2016, the group discussed, among other topics, the implications of systemic interventions and the role of ombudsmen and mediators as organizational change agents.

2. Cooperation between the informal and formal parts of the internal system of administration of justice

98. In paragraph 24 of its resolution 71/266, the General Assembly requested detailed information from the Secretary-General on efforts to further enhance cooperation between the informal and formal parts of the system of administration of justice.

99. To facilitate collaboration on the resolution of disputes emerging from administrative decisions, the Office continued to cooperate with the different offices that form the formal system of justice. In 2016, the Office maintained its engagement with the Dispute Tribunal, the Management Evaluation Unit and the Office of Staff Legal Assistance.

100. In Geneva, Nairobi and New York, staff of the Office frequently liaised with the registries and judges of the Dispute Tribunal, as appropriate, and encouraged the settlement of cases through mediation.

101. Collaboration with the Office of Staff Legal Assistance was useful for resolving conflicts as early as possible by informal means and for clarifying the legal framework of emerging issues. The Office of Staff Legal Assistance can promote the informal resolution of conflicts early in the process. In that regard, it refers cases to the Office of the Ombudsman and Mediation Services that are deemed to be more amenable to informal resolution. Conversely, the Office of the Ombudsman and Mediation Services makes a recommendation to its visitors to consult the Office of Staff Legal Assistance when the issues presented are deemed not amenable to informal resolution.

102. In the context of ongoing efforts to streamline the referral processes between the formal and informal systems, the mediation service of the Office of the Ombudsman and Mediation Services, in conjunction with the Management Evaluation Unit and the Office of Staff Legal Assistance, organized a session on the theme of "Why to refer and what to refer to informal resolution". Among other areas, the activity focused on the types of issues amenable to mediation and the benefits of mediation.

VII. Enhancing access to the ombudsman and mediation services

A. Access to the ombudsman and mediation services for field staff

103. In its resolution 71/266, the General Assembly, having recognized that access continues to be a challenge for field staff, including for those in special political missions, encouraged the development of innovative measures to address those challenges.

104. Getting access to the ombudsman and mediation services is a challenge for field staff in regions where the Office does not have a presence. For many staff in the field, familiarity with the use of the Internet, even when it is available, cannot be taken for granted and contacting the Office can be a further challenge, given differences in time zones and language barriers. Even where the Office encourages the use of Internet technologies for face-to-face communication, some staff are fearful of the possibility of confidential and private information being exposed.

105. To compensate for the absence of offices in most duty stations, the Office regularly visits peacekeeping operations and special political missions where it has no physical presence. However, limited time on the ground frequently means having to choose who to serve and who not to serve. With the continuing reductions in the budgetary allocation for travel, access is likely to become even more constrained.

B. Access to the ombudsman and mediation services for non-staff personnel

106. In paragraph 18 of its resolution 71/266, the General Assembly requested information on disputes involving non-staff personnel and on existing measures to institutionalize good management practice to manage disputes for personnel of this category.

107. Owing to limited resources, the Office cannot provide non-staff personnel with the full range of services that are available to staff members, but it nevertheless receives non-staff personnel directly seeking assistance. In practice, it is difficult to reject cases from non-staff personnel when the issues involve a staff member or the administration. Complaints about interpersonal issues in particular can impact an entire office and failure to intervene can compromise office productivity and the delivery of the mandate. The risk is further heightened in field mission environments.

108. In view of the trend towards an increasing number of non-staff on the workforce, as noted by the Joint Inspection Unit (JIU/REP/2014/8), the Office would face a challenge if the number of non-staff seeking its services increased further. While the Office considers it important to provide services to all United Nations personnel, permitting non-staff personnel of the Secretariat to access the informal system would necessitate additional resources. The additional resources that would be required were reported to the General Assembly at its sixty-seventh session (see A/67/265 and Corr. 1, annex 5). While the resources requested at that time remain the same, the amounts would have to be adjusted to the applicable costs of the year of implementation.

C. Strengthening resources for enhanced informal conflict resolution

109. In paragraph 47 of resolution 71/266, the General Assembly decided to consider at its seventy-second session issues related to resource requirements for

improving the functioning of a transparent, professional, adequately resourced and decentralized system of administration of justice at the United Nations.

110. The Office has been experiencing a substantial increase in workload as it has embarked on more preventative skills development activities, which require an analysis of needs, the acquisition of skills and a corresponding change in the organizational culture. Additionally, more work has been done to conduct quantitative and qualitative analyses of the issues facing staff to determine appropriate interventions and provide meaningful feedback to management. In order to carry out those enhanced functions, the Office would benefit from the addition of one P-3 Analyst post to its staffing table.

111. The increased caseload throughout the regions has also resulted in the need for a more robust coordination mechanism to support global operations, case work, systemic analysis and outreach. An Administrative Officer at the P-4 level, supporting the Chief of the Office, is needed to address the increased workload.

112. Finally, given the constituencies served by the Geneva and Nairobi regional offices and the requests to support cases emanating from the Dispute Tribunals, including through mediation, the addition of one P-4 Conflict Resolution Officer in both Geneva and Nairobi would greatly enhance services to staff.

VIII. Future directions

113. Marking 15 years since the establishment of the Ombudsman and Mediation Service at the United Nations provides an opportunity to reflect on both the past and the future.

114. Much has been accomplished since the United Nations invested in the creation of a full-time, professional ombudsman programme in 2002. From the outset, when the programme was still a small headquarters-based operation, the first ombudsmen who were involved in its establishment ensured that efforts were made to operate the Office according to generally accepted professional standards. That provided a compass, which guided the development of the Office over the years and ensured integrity in both structure and operation. In 2015, those same standards served as an important point of reference for the review by the Joint Inspection Unit of the organizational ombudsman services across the United Nations system (JIU/REP/2015/16). Going forward, it is important for the Organization to support continued adherence to those standards.

115. As the Office has continued to enhance and refine its services, an emphasis on identifying systemic issues, policies and procedures that contribute to conflicts and problems, has become a regular analytical approach to its work. Working as a neutral mediator or problem-solver still allows the Office to work side by side with staff and management to identify areas in the Organization which can be improved, unlike other functions which adjudicate or make determinative findings. One of the values of the Office is the ability to both identify systemic issues and work with the Organization and its leadership as they seek to improve the system.

116. Furthermore, the Office has embarked on initiatives to better collect and analyse data in order to diagnose the challenges facing the Organization and help to identify appropriate interventions. By providing useful data and identifying patterns and trends across various areas of the system, the Office provides valuable feedback, which can improve the Organization.

117. In recent years, with the development of its strategic plan, the Office has focused on the promotion of skills-based training to enhance the conflict

competence of staff and managers. That strategy has been well received in the Organization. In paragraph 25 of its resolution 71/266, the General Assembly emphasized "the importance for both staff and managers to understand and adopt conflict competency skills in order to prevent conflicts, cope with potential or actual conflicts and maintain resilience".

118. All these efforts have led to the Office being recognized as particularly effective. An external review conducted in 2012 by an independent panel of experts cited the successes of the Office in communicating its services, acting as an organizational change agent and engaging in and overcoming challenges, including the administrative demands of branching out to seven new locations, all within an organizational environment that poses significant challenges for informal conflict resolution.

119. In its report of 2016 on the United Nations system of administration of justice, the Interim Independent Assessment Panel stated that many managers in the field valued the role of the Ombudsman. Managers at one duty station informed the Panel that 50 per cent of possible litigation cases had been averted by using the informal system. They attributed this success to the engagement of the leadership at the highest level and collaborative communication with the Ombudsman in order to identify problems at an early stage (see A/71/62/Rev.1, para. 116). That serves as a solid base on which to build for the future.

120. It is clear that the United Nations has embraced the Office and the idea of continuously improving the Organization. Nevertheless, there is much more work to be done. The Organization must continue to recognize that its system of checks and balances, designed with the intent, in part, to foster accountability, also creates a bureaucratic machine, which is often unresponsive, slow to change and not always encouraging to individual accountability or creativity. That model is ultimately unsustainable in today's environment. The United Nations should continue to seek a better balance between the rights afforded to staff and the responsibilities of staff, seek leaders who are not only substantive experts but sound managers, work harder to establish a culture of respect and civility, and endeavour to be more willing to integrate external best practices and efficiencies. All of that, however, requires a recognition that the political structure of the United Nations makes it challenging, as it is an environment where mandates never cease to expand, while funding and resources are increasingly limited.

121. Nevertheless, the Office remains encouraged that the United Nations has taken strides in improving its systems and structures and continues to seek ways to move forward. Those who work in the system are dedicated to advancing the important mandates of the Organization. Investing in them by encouraging a resilient workforce and harmonious and respectful workplace may be one of the most important areas to attend to in the coming years.

122. A strong informal conflict resolution system in the United Nations serves the primary goal of preventing and managing conflicts and problems that can distract staff and managers from the important work at hand. It is important that staff and managers continue to have access to such a resource as they carry out their duties. The success of the Organization is dependent on the men and women who dedicate their lives to this important work. At its heart, the United Nations can only reach as far as the people who serve in it can extend.

Annex

[English only]

Core principles of the Office of the United Nations Ombudsman and Mediation Services

As the informal pillar of the system of administration of justice at the United Nations, the Office of the United Nations Ombudsman and Mediation Services uses informal and collaborative approaches to resolve workplace conflict. It is guided by the core principles of independence, neutrality, confidentiality and informality, which are summarized below.

Independence

The Office maintains independence from other organizational entities, organs or officials and has direct access to the Secretary-General, the executive heads of the funds and programmes, the United Nations High Commissioner for Refugees and senior management throughout the Organization, as needed. It has access to information relevant to cases, except medical records, and access to individuals in the Organization who request advice, information or an opinion on any particular matter.

Neutrality

The Office serves as an advocate for fair and equitably administered processes, not on behalf of any individual within the Organization, taking into account the rights and obligations of the Organization, the staff member and the equity of the situation.

Confidentiality

The Office maintains strict confidentiality and does not disclose any information about individual cases or visits from staff members. Its staff members cannot be compelled by any United Nations organ or official to testify or disclose information about cases.

Informality

In respect of its informality, the Office does not keep records for the United Nations or any other party. It does not conduct formal investigations or accept legal notice on behalf of the United Nations. It does not have decision-making powers, nor does it make determinative findings or judgments.

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Contemporary forms of slavery, including its causes and consequences

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, in accordance with Human Rights Council resolution 33/1.

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Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Summary

In the present report, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, discusses the Sustainable Development Goals and slavery eradication efforts.

The Special Rapporteur begins by summarizing her activities over the past year. She then discusses how the continued prevalence of contemporary forms of slavery can in many ways be seen as a symptom of the weaknesses in the efforts to achieve sustainable development and explores the systemic socioeconomic trends that have contributed to that continued widespread prevalence. She then analyses the Sustainable Development Goals and discusses how the formulation of the 2030 Agenda for Sustainable Development and the inclusion of a specific target on slavery present a historic opportunity. She also discusses the implementation of the 2030 Agenda, as well as issues of resource mobilization and how they have an impact on the ability of the international community to maximize relevant opportunities vis-à-vis slavery eradication efforts. She concludes by presenting recommendations to Member States and other stakeholders.

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I. Introduction and summary of recent activities

1. The present report is submitted by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, pursuant to Human Rights Council resolution 33/1. It is her first report to the General Assembly following the renewal of her mandate in September 2016, at the thirty-third session of the Human Rights Council.

A. Participation in consultations and conferences

2. Since the thirty-third session of the Human Rights Council, the Special Rapporteur has participated in a wide range of international conferences and initiatives relating to the prevention and eradication of all contemporary forms of slavery. In September 2016, She attended a meeting on cooperation against contemporary forms of slavery convened by the Prime Minister of the United Kingdom of Great Britain and Northern Ireland and attended by other Heads of State, United Nations agencies and civil society experts on the margins of the seventy-first session of the General Assembly. During the meeting, the Special Rapporteur stressed the need for robust legal and institutional frameworks and coherence among legal and policy instruments. In addition, she discussed the importance of involving the business sector and the need to integrate the voice of victims into all slavery eradication efforts.

3. In December 2016, the Special Rapporteur participated in a panel at an event on child slavery with the United Nations High Commissioner for Human Rights, Zeid Raad Al Hussein, and other stakeholders, convened by the United Nations voluntary trust fund on contemporary forms of slavery. The fund assists individuals whose human rights have been severely violated as a result of contemporary forms of slavery. It provides vital direct humanitarian, legal and financial assistance to victims through grants awarded to non-governmental organizations. Throughout the implementation of her mandate over the past year, the Special Rapporteur has worked in collaboration with the trust fund. She thanks the fund for its ongoing support for her work and encourages Member States to support its work.

4. In March 2017, the Special Rapporteur gave a presentation at the Security Council ministerial open debate on trafficking in persons in conflict situations, forced labour, slavery and other similar practices. She called for greater coordination and leadership against slavery and related phenomena and for Council members to ratify and implement international standards, as well as discussing the need to strengthen humanitarian responses to conflict situations and to increase national and international accountability for slavery-related human rights abuses in conflict.

5. During the past year, the Special Rapporteur has engaged with Alliance 8.7, a multi-stakeholder coalition committed to accelerating and intensifying action to achieve target 8.7 of the Sustainable Development Goals, attending both the high-level launch, held in New York in September 2016, and a consultation on child labour and forced labour, held in Addis Ababa in June 2017.

6. The Special Rapporteur will present a thematic report on access to justice and remedy for victims of contemporary slavery at the thirty-sixth session of the Human Rights Council, in September 2017.[1]

[1] See A/HRC/36/43.

B. Country and follow-up visits

7. Since her presentation to the Human Rights Council at its thirty-third session, the Special Rapporteur conducted a country visit to Paraguay between 17 and 24 July 2017. The purpose of the visit was to address the causes and consequences of contemporary forms of slavery in the country, identify good practices undertaken by the Government, investigate the challenges that Paraguay was facing relating to the issue of contemporary slavery and develop recommendations on how slavery eradication efforts could be accelerated. A report summarizing the visit will be made available to the General Assembly at its seventy-third session.

8. In addition, the Special Rapporteur visited Mauritania in April 2017 and will visit the Niger in August 2017, to conduct workshops to assess the implementation of the previous recommendations made by the mandate holder. Reports summarizing these workshops are and will be available on the website of the Special Rapporteur.

II. Harnessing the 2030 Agenda for Sustainable Development to achieve the full eradication of all contemporary forms of slavery

9. On 25 September 2015, at the United Nations summit for the adoption of the post-2015 development agenda, the General Assembly endorsed an ambitious and wide-reaching development agenda, encapsulated in 17 Sustainable Development Goals and 169 targets. The comprehensive Goals, which encompass issues relating to poverty, education, gender equality, decent work and economic growth and reduced inequality, among others, seek to end poverty, protect the planet and ensure prosperity for all. The development of the 2030 Agenda for Sustainable Development succeeded the Millennium Development Goals, eight Goals set by the international community at the turn of the millennium and considered to be the most crucial development priorities.

10. The Sustainable Development Goals have the potential to accelerate the efforts being made to fully eradicate all contemporary forms of slavery. The 2030 Agenda includes a specific target on the eradication of slavery. Target 8.7, under Goal 8, to "promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all". Furthermore, by including goals and targets relevant to the causes of slavery and access to justice, such as those relating to poverty, education, gender equality, decent work and economic growth and peace, justice and strong institutions, the 2030 Agenda offers the potential to guide action and resources towards the prevention of contemporary forms of slavery and the punishment of perpetrators of related human rights violations.

11. The Special Rapporteur considers the implementation of the 2030 Agenda, and target 8.7 in particular, to be fundamental to her mandate and plans to make her engagement on related issues a priority over the coming three years. The present report, which is based on desk-based research and country-based and thematic engagement by the Special Rapporteur, is intended as an overview of the topic of sustainable development and the eradication of contemporary forms of slavery and is a first step in her ongoing engagement on the issue.

12. In the present report, the Special Rapporteur will explore how the potential within this new development framework can be harnessed to accelerate efforts to eradicate all contemporary forms of slavery, broadly constituting all contemporary forms of slavery and slavery-like practices, in particular those defined in the Slavery

Convention (1926) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). Such practices include, but are not limited to, traditional slavery, forced labour, debt bondage, serfdom, children working in slavery or slavery-like conditions, domestic servitude, sexual slavery and servile forms of marriage.[2]

13. The report begins with a discussion of how the continued prevalence of contemporary forms of slavery can, in many ways, be seen as a symptom of weakness in the efforts to achieve sustainable development, as well as the shortcomings of the Millennium Development Goals in relation to slavery eradication efforts. After conceptualizing contemporary forms of slavery, the Special Rapporteur discusses the key systemic socioeconomic trends that have contributed to the continued widespread prevalence of such extreme exploitation. The report continues with an analysis of the Sustainable Development Goals and a discussion of how, while flawed in some ways, the formulation of the 2030 Agenda and the inclusion of a specific target on slavery present a historic opportunity to leverage resources and political will to help to end all forms of contemporary forms of slavery. The Special Rapporteur then discusses the implementation of the 2030 Agenda, including multi-stakeholder initiatives such as Alliance 8.7, as well as issues of resource mobilization and how these can have an impact on the international community's ability to maximize relevant opportunities vis-à-vis slavery eradication efforts.

14. The Special Rapporteur concludes by arguing that, while the Sustainable Development Goals represent a significant improvement on the Millennium Development Goals in relation to contemporary forms of slavery, the historic opportunity presented by the inclusion of target 8.7 will be lost unless sufficient resources can be mobilized to achieve all the Sustainable Development Goals as interdependent and intersecting outcomes. The Special Rapporteur stresses the importance of tackling socioeconomic trends that undermine sustainable development and enable extreme exploitation, alongside comprehensive national approaches to the full and effective eradication of contemporary forms of slavery. Lastly, the Special Rapporteur makes a series of recommendations to Member States and other stakeholders for the effective implementation of target 8.7 and the broader 2030 Agenda.

A. Contemporary forms of slavery as a symptom of the weakness of sustainable development

15. The 2030 Agenda builds upon the Millennium Development Goals by including a specific target to end "modern slavery", as well as other forms of exploitation, and represents an important step forward in its inclusion of objectives related to the eradication of slavery in development frameworks. The very need for slavery to be included, however, is also indicative of the fact that, in 2015, contemporary forms of slavery continued to have an impact on the lives of millions of adults and children, despite sustained efforts to achieve sustainable development. Methodological constraints, limited data availability and questions on how exactly to define contemporary forms of slavery prevent a full understanding of exactly how many people live in such situations of extreme exploitation, although figures on forced labour from the International Labour Organization (ILO) from 2012, which include many contemporary forms of slavery and are considered the most accurate

[2] See Human Rights Council resolution 33/1 and www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/SRSlaveryIndex.aspx.

proxy measure, indicate that an estimated 21 million persons suffer from such abject exploitation.[3]

16. As referenced above, the Millennium Development Goals were time-bound goals, agreed upon by the international community at the turn of the millennium and formally endorsed by the General Assembly in 2005.[4] The Goals addressed many issues relating to development, including hunger and extreme poverty, education, gender equality, maternal health and child mortality, communicable diseases, the environment and partnerships for achieving development. They received a high level of political commitment and were measured against a limited number of quantitative targets. For example, Goal 2, on achieving universal primary education, was measured against the target that, by 2015, all children everywhere, boys and girls alike, would be able to complete a full course of primary schooling. The Goals and targets, and the political commitment to them, led to significant resource mobilization and hence some successful results were achieved. For example, it is estimated that the population in the developing world living on less than $1.25 a day fell from nearly 50 to 14 per cent in 2015 and the primary school net enrolment rate in developing countries increased by 8 per cent from 83 per cent in 2000 to 91 per cent in 2015. Furthermore, the global under-5 mortality rate fell from 90 to 43 deaths per 1,000 live births between 1990 and 2015 and the maternal mortality ratio declined by 45 per cent worldwide over the same period.[5]

17. While such progress and the political consensus that formed around the Millennium Development Goals are commendable, the Millennium Development Goals framework had many weaknesses in its capacity to support efforts to eradicate slavery. First and foremost, the framework made no reference to contemporary forms of slavery, including forms affecting children, such as the worst forms of child labour. As both a cause and a consequence of underdevelopment, the omission of contemporary forms of slavery and related forms of exploitation was a serious weakness, resulting in measures to eradicate slavery often being excluded from mainstream development programmes.[6]

18. Despite the exclusion of explicit references to contemporary forms of slavery, the Millennium Development Goals still had the potential to tackle such phenomena. The Goals addressed many issues relevant to the root causes and consequences of contemporary forms of slavery, including extreme poverty, gender inequality, education and global partnerships for development. Broader weaknesses, however, had a serious impact. As has been criticized by many stakeholders, human rights dimensions were largely excluded from the development, implementation and monitoring of the Goals.[7] The Goals had a narrow focus in relation to development, which excluded the role of civil and political rights in achieving development, and were characterized by technocratic targets to monitor and measure implementation. The Goals and targets did not take into account the fundamental human rights of all citizens by measuring equality or equity of development outcomes or mapping

[3] International Labour Office (ILO), Special Action Programme to Combat Forced Labour, *ILO Global Estimate of Forced Labour: Results and methodology* (Geneva, 2012). Available from www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf.

[4] *Claiming the Millennium Development Goals: A Human Rights Approach* (United Nations publication, Sales No. E.08.XIV.6).

[5] United Nations, "The Millennium Development Goals report 2015: summary", 2015. Available from www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20Summary%20web_english.pdf.

[6] Aidan McQuade, "We can't ignore slavery in the bid to lift millions out of poverty", *Guardian*, 3 April 2013. Available from www.theguardian.com/global-development/poverty-matters/2013/apr/03/we-cannot-ignore-slavery-poverty.

[7] *Claiming the Millennium Development Goals* (United Nations publication).

progress against the duties of the State under human rights treaties to progressively realize economic, social and cultural rights. In fact, the targets associated with certain Goals, such as halving the number of people living in extreme poverty, encouraged targeting those closest to the threshold needed to reach the target rather than reaching out to those most in need and ensuring the fulfilment of the related rights of all citizens. Victims of contemporary forms of slavery are invariably among the most vulnerable in society and they face multiple and intersecting forms of discrimination, based on, among other things, gender, age, poverty, being perceived as being of low caste status, being of slave descent and belonging to indigenous communities. This vulnerability and the fact that such populations were all too often excluded from the successes of the Millennium Development Goals limited the extent to which the prevailing development framework could address the root causes and consequences of contemporary forms of slavery.

19. Furthermore, there are questions about the extent to which the Millennium Development Goals were able to encourage high-quality development outcomes that could have contributed to tackling the causes and consequences of contemporary forms of slavery. The targets associated with the Goals tended to quantify outcomes in a one-dimensional way and focus on absolute reductions in chosen measurements with very limited focus on the corresponding quality and impact. For example, while enrolment in primary education increased significantly under the Goals, and it is commonly cited as a key success story, there are reports of children in countries who achieved progress in this area finishing primary education functionally illiterate and thus still being deprived of their right to education. This is contrary to the human rights obligations of States to ensure good-quality primary education that is free and compulsory.[8] In addition, the narrow focus of the Goals did not adequately address the structural and systemic shift of socioeconomic trends, discussed below, which undermine sustainable human development and enable contemporary forms of slavery to continue unabated.

20. While it is difficult to say with authority what impact the exclusion of slavery and broader human rights concerns has had on the number of victims of contemporary forms of slavery, the available data do not present a positive picture of the progress made during the period of the implementation of the Millennium Development Goals. In 2005, ILO published its first global forced labour figures, estimating that, at a minimum, 12.3 million persons were in forced labour at any point in time in the period from 1995 to 2004. In 2012, when ILO published new estimates, the number was 21 million. Given the significant methodological differences in the estimates cited, the figures cannot be compared. The figures, however, leave no room for doubt that large numbers of people were victims of contemporary forms of slavery in the same period when significant resources and efforts were dedicated to implementing the Goals. The most recent data published by ILO also included 5.5 million children thought to be in situations of slavery, which is similar to an indicator included in the 2005 figures, highlighting the failure of the Goals to reduce contemporary forms of slavery among the most vulnerable victims.[9]

21. The way in which the Millennium Development Goals were developed and conceptualized was also a missed opportunity to establish crucial links in the normative debates about slavery, human rights and systemic socioeconomic trends. The Goals had a profound impact on the development discourse and the fact that

[8] Elaine Unterhalter, "Education targets, indicators and a post-2015 development agenda: education for all, the MDGs, and human development", working paper series (May 2013); and United Nations, "Who will be accountable? Human rights and the post-2015 development agenda", HR/PUB/13/1 (New York and Geneva, 2013).

[9] ILO, *ILO Global Estimate of Forced Labour*.

they did not include a discussion of contemporary forms of slavery meant that related debates failed to address the important interlinkages between the phenomenon and the causes and consequences of underdevelopment.

B. Key socioeconomic trends

22. Viewing the continued prevalence of slavery as a symptom of the weakness of global efforts to achieve sustainable development allows us to look beyond the lens of individual vulnerability to contemporary forms of slavery and government responses to the phenomena and examine the systemic global socioeconomic trends that have significantly contributed to the way that such widespread exploitation has been able to flourish. Examining the trends helps us to understand why, despite the establishment in many countries of robust legal frameworks prohibiting contemporary forms of slavery and other measures to eradicate the phenomena, the scourge continues unabated. There are a number of such key trends, deeply interconnected and mutually reinforcing, and which are analysed below.

Globalization

23. The time at which the Millennium Development Goals were developed and implemented can be characterized as a period of significant globalization. While there is no agreed definition of globalization, it refers to complex processes of integration of capital and global and labour markets fuelled by technological advancement.[10] Such integration is not inherently detrimental and could, if governed correctly, have the potential to accelerate efforts to eradicate contemporary forms of slavery, for example, finding victims through technological advancements, increased information flows or mitigating risk factors for contemporary forms of slavery through orderly global migration channels. However, the globalization experience has been profoundly shaped by neo-liberal notions of political economy, which argue that markets unfettered by government oversight and control will encourage economic growth and wealth creation that in turn will bring trickle-down economic benefits for all members of society. This narrow free-market doctrine of economic development is characterized by support for reducing market regulation, trade and investment liberalization, cutting expenditure for social services and privatization of State-owned enterprises.

24. This form of globalization, characterized by adherence to neo-liberal economic principles and a lack of integration of human rights principles, has played a huge role in allowing widespread exploitation, including contemporary forms of slavery, to flourish, not least by driving demand for low-cost goods and services, promoting unsustainable consumption patterns, as well as allowing companies to have easier access to new markets and new sources of labour, this, which, in turn, has driven demand for cheaper labour, combined with weak regulatory frameworks. The race to the bottom to find the cheapest labour can mean that contemporary forms of slavery become a way for companies to, knowingly or unknowingly, gain a competitive advantage owing to the very low costs of such labour.[11] Such competitive advantage then, in turn, creates a powerful economic disincentive to the eradication of related forms of contemporary slavery. The cheap cost of travel and technological advancements that have accompanied globalization, such as mobile technology and

[10] World Trade Organization, World Trade Report 2008: Trade in a Globalized World, "Globalization and Trade" p. 15. Available from www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report08_e.pdf.

[11] Oxfam International, "An economy for the 99%", Oxfam briefing paper (January 2017).

widespread access to the Internet, have in some cases aided perpetrators of human rights violations in finding and trafficking victims into situations of slavery.

25. Data on the acquisition price of slaves from 2000 B.C. to 2004 suggest that globalization has reduced barriers to and encouraged contemporary forms of slavery. The analysis showed a steady decline in the price of slaves after World War II, which is characterized as a period of globalization, with prices being the lowest in history in the most recent years analysed.[12] As well as incentivizing enslavement, lowering the economic price that a slaveholder has to pay to enslave someone can also increase the subsequent level of exploitation and human rights abuses experienced by the victim. If the cost of replacing a slave is small, victims are seen as a low-value and disposable commodity and there is no economic incentive to take adequate care of their needs.

26. The significant cuts in government spending on social services in many countries, and the privatization of public goods that have characterized globalization have additionally impeded the capacity of States to tackle the causes and consequences of slavery through the provision of services that could prevent such exploitation, including education and social services, as well as of appropriate assistance to identified victims.

Poverty

27. Poverty creates profound vulnerability to contemporary forms of slavery. There is a clear correlation between the poorest countries and those that have the highest prevalence of slavery. The only factor that dilutes this correlation is the fact that victims from low-income countries that experience extreme poverty can be trafficked into situations of slavery in more developed countries.[13] While extreme poverty declined significantly under the implementation of the Millennium Development Goals, progress was not enjoyed equally across regions, countries and groups within different societies. This has meant that all too often the most vulnerable, including those living in isolated rural areas, children and women and indigenous communities, are excluded from the gains made in poverty reduction. This leaves them without reliable access to the necessary means to meet their needs, including food, water, shelter, medical services and clothes.

28. The despair created by the inability to meet basic needs can make people extremely vulnerable to contemporary forms of slavery. They are more likely to accept offers of employment that lead to situations of debt bondage or other forms of forced labour and domestic servitude. As highlighted in the report by the Special Rapporteur to the Human Rights Council in 2016, bonded labourers are frequently reported to live in situations of poverty that are sustained through generations. The majority are trapped in debt bondage because the only way that they can obtain the credit needed to meet basic needs or react to adverse life events is to take funds that are tied to deeply exploitative labour situations from employers or recruiters.[14] Poverty can also create vulnerability to other forms of contemporary slavery. Families experiencing extreme poverty are more likely to allow or force their children into the worst forms of child labour and/or coerce and force young girls into situations of forced and servile marriage in order to obtain a dowry payment. For example, when the Special Rapporteur visited the Niger, the country with the highest proportion of child marriage in the world, she noted that the phenomenon was highest among girls who were the least educated, poorest and living in rural

[12] Kevin Bales, *Ending Slavery: How We Free Today's Slaves* (Berkeley and Los Angeles, University of California Press, 2007), p. 15.

[13] Ibid.

[14] See A/HRC/33/46.

areas.[15] The Special Rapporteur has also found during a number of her country visits, including to El Salvador, Ghana and the Niger, that poverty is a root cause of the worst forms of child labour.[16]

Increasing global inequality

29. Global inequality has reached staggering levels. It was estimated that, in 2015, the richest 1 per cent of the world's population owned 50 per cent of global wealth.[17] A report by Oxfam International further exemplified the severity of global inequality by indicating that a senior corporate executive at a company traded on the London Stock Exchange earns the equivalent to the annual wages of 10,000 people working in garment factories in Bangladesh.[18]

30. Such profound and systemic inequality shows that the systemic design of our economies, as shaped by neo-liberal globalization, is not allowing the benefits of economic growth to be shared between people within societies. Inequality also has an impact on the way that actors within the value and supply chains of products and services benefit, with those at the top increasingly taking a larger share of the profits. The research by Oxfam International referenced above showed how, in the 1980s, cocoa farmers received 18 per cent of the value of a chocolate bar, whereas today they receive just 6 per cent.[19] While inequality is everywhere, trends suggest that inequality in lower-income and middle-income countries can be more extreme than in high-income countries.[20]

31. This type of unfettered inequality is self-perpetuating, as the wealthy are far better able than other members of society to gain access to opportunities for investment and further wealth creation. Such elites are also in a position to capture public legislative and policy development processes to serve their own interests, which further entrenches their advantage in economic and social systems and simultaneously creates structures that limit upward social mobility for people in the lower classes. This process of co-opting State mechanisms by elites to serve their own interests can be particularly pronounced in countries that have high levels of corruption.

32. Inequality contributes specifically to the continued widespread existence of contemporary forms of slavery. Inequality creates significant barriers to the most vulnerable within society preventing them from finding ways out of deeply exploitative situations where they have no protection. Such structures also undermine the equity of development outcomes, which in turn significantly undermines efforts to prevent contemporary forms of slavery by addressing their root causes, such as poverty, lack of education, illiteracy and lack of access to decent work opportunities. For example, the World Bank estimates that the poorest children in developing countries are four times less likely than the richest children to be enrolled in primary education.[21] This polarization of outcomes means that the most poor and vulnerable will find it difficult to gain access to the services and support that can help them to avoid or escape situations of slavery. Furthermore, there is a strong correlation between countries that have high levels of corruption and those that have the highest prevalence of slavery.[22] Such corruption allows

[15] See A/HRC/30/35/Add.1.
[16] Ibid.; see also A/HRC/33/46/Add.1.
[17] Markus Stierli and others, "Global wealth report 2015" (Zurich, Credit Suisse, 2015).
[18] Oxfam International, "An economy for the 99%".
[19] Ibid.
[20] World Bank, *Poverty and Shared Prosperity 2016: Taking on Inequality* (Washington, D.C., 2016).
[21] Ibid.
[22] Bales, *Ending Slavery: How We Free Today's Slaves*.

slaveholders to collude with government officials and police forces to evade laws that protect the rights of victims.

33. Global inequality has also been established as a major source of social instability and conflict by institutions including the World Economic Forum and the World Bank.[23] Social instability and conflict can create vulnerability to specific forms of slavery and related exploitation, as has been reflected in the information that the Special Rapporteur has received when she has conducted fact-finding visits to countries. For example, when she visited El Salvador, a country experiencing a period of significant social instability, she received information about how women, girls and young boys were subjected to slavery-like practices in situations of localized gang violence, such as sexual subjugation and forced recruitment into gangs and criminal activities.[24] When visiting Nigeria, she received information about the sexual enslavement of women and girls at the hands of Boko Haram during the period of internal conflict, which is discussed further in paragraph 39 below.[25]

Lack of decent work

34. According to ILO, decent work is characterized by opportunities for work that are productive and provide a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. Decent work is a powerful protection against contemporary forms of slavery, it can alleviate poverty and provide security for people, allowing them to meet basic and other needs. Decent work also creates conditions under which workers can unionize and protect themselves and others against contemporary forms of slavery and other human rights abuses.

35. Global trends have shown significant and sustained deficits in decent work, resulting in both higher unemployment and extremely high levels of precarious work. According to ILO, in 2017, 201.1 million people will be unemployed.[26] With the figure expected to rise in 2018. While economic conditions are expected to improve moderately, leading to new job creation, the number of people entering the workforce is predicted to increase more swiftly, leaving an additional 2.7 million people unemployed.[27] Workers in vulnerable forms of employment are typically subject to high levels of precariousness, having limited access to the contributory social protection schemes that tend to be more common among waged and salaried workers. ILO published figures in 2017 estimating that a staggering 1.4 billion people will be in precarious forms of employment; this figure is expected to grow by 11 million per year in the coming years.[28] Vulnerable employment has an impact on those in developing countries most significantly, affecting [illegible] of 5 workers.[29]

36. Such shocking deficits in decent work are being driven by key trends. Increasing global integration has caused significant restructuring of national labour markets as Governments have responded to the needs of foreign investors rather than to national imperatives linked to the labour and human rights of all citizens. Other recent trends include the global financial and economic crises that began in

[23] World Economic Forum, *Global Risks 2012*, 7th ed. (Geneva, 2012). Oxfam International, "An economy for the 99%".
[24] See A/HRC/33/46/Add.1.
[25] See A/HRC/32/32/Add.2.
[26] ILO, *World Employment Social Outlook: Trends 2017* (Geneva, 2017).
[27] Ibid.
[28] Ibid.
[29] Ibid.

2008, reducing employment opportunities, the steady decline of, and attacks against, freedom of association and collective bargaining, weakening regulation of the labour market and increasing competition for decent work opportunities as a result of the growth of the labour force.[30]

Weak labour regulations

37. As discussed above, globalization has been characterized by an adherence to neo-liberal economic doctrines, which advocate a roll-back of government control over economic markets in order to facilitate growth as the primary measure of economic success. This has led to a significant degree of deregulation in different countries, including in relation to labour market management. The increasingly integrated nature of the global economy means that multinational companies have the ability to move operations abroad depending on the attractiveness of the regulatory framework in relation to profit maximization.[31] Countries, in particular lower-income countries, often seek to attract foreign direct investment as a means by which to facilitate growth, which is seen as the primary measure of economic success within neo-liberal economic doctrines. This can create a race to the bottom where countries aggressively deregulate in order to have the most attractive conditions for investment. This places companies in a strong bargaining position whereby they can encourage deregulation, including of the labour market, before investing in the relevant country. A lack of labour market regulation strips workers of their labour rights, leaving them increasingly vulnerable to contemporary forms of slavery. Weak labour market protection is often accompanied by limited labour inspectorates, which also reduces the ability of government officials to detect cases of slavery and take appropriate action.

Gender inequality

38. The causes and consequences of the socioeconomic trends described above are not gender-neutral. Socioeconomic discrimination and exclusion of women are systemic, profound and manifested in different ways. Poverty can have a disproportionate impact on women and girls as they face competing pressures to undertake time-consuming unpaid domestic and care work and contribute to their family income. In a time when the capacity of the State to provide social protection has been significantly cut, economies have become more reliant on the work provided by women as caregivers to maintain a competitive advantage, but provide no economic reward for it. This makes women more vulnerable to poverty.[32] Another manifestation of such economic exclusion and discrimination is that girls are significantly more likely to be out of school than boys. Girls are 1.5 times more likely than boys to be excluded from primary school.[33] A lack of access to decent work opportunities is another way that women are vulnerable to the adverse effects of the global socioeconomic realities that are enabling the systemic exploitation of people on a shocking scale. Women in many countries have significantly lower participation in the labour market; the World Bank calculated a global average of 50 per cent female participation in 2014 compared with 77 per cent for men.[34] Women who do participate in the workforce are often paid less than men for the same work, are more vulnerable to harassment and work-based discrimination, are

[30] International Trade Union Confederation, "The 2017 ITUC global rights index: the world's worst countries for workers", 2017; ILO, *World Employment Social Outlook*.

[31] Tessa Khan, *Delivering Development Justice? Financing the 2030 Agenda for Sustainable Development*, Discussion Paper, No. 10 (New York, UN-Women, 2016).

[32] Ibid.

[33] See http://uis.unesco.org/sites/default/files/documents/reducing-global-poverty-through-universal-primary-secondary-education.pdf.

[34] World Bank, *Poverty and Shared Prosperity 2016*.

more likely to be in precarious situations of employment and are overrepresented within clerical and service-based roles.[35]

39. The negative impacts of these socioeconomic trends on women contribute significantly to their increased vulnerability to contemporary forms of slavery. Women are overrepresented in the 21 million people estimated by ILO to be enslaved, accounting for around 55 per cent of victims.[36] The Special Rapporteur has seen the vulnerability of women and girls when making country visits, even when the context and modalities of contemporary forms of slavery differ significantly. For example, when she visited north-east Nigeria in February 2016 with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the sale and sexual exploitation of children, she heard first-hand from children who were trafficked, enslaved and forced into domestic and sexual servitude by Boko Haram. Many of the girls had children after they were forced to marry their abductors, but are ostracized for suspected radicalization and their children are despised for being of "bad blood".[37] In April 2016, when she visited El Salvador, she received information about women and girls enslaved by gangs, threatened with extreme violence in order to make them comply with heinous forms of sexual exploitation and women working as home-based workers, performing embroidery work for companies under oppressive conditions to meet quotas and targets in order to be paid.[38] In addition, when she visited the Niger, she received information about women and girls, often of slave descent, who were subject to forced and servile marriage through the *wahaya*, or fifth wife, practice.[39]

C. 2030 Agenda and slavery eradication efforts: a historic opportunity

40. The 2030 Agenda for Sustainable Development presents an opportunity for the international community to respond to these socioeconomic trends and increase development efforts to tackle contemporary forms of slavery, its causes and consequences. The 2030 Agenda goes far beyond the Millennium Development Goals, both in relation to contemporary forms of slavery and a more generalized respect for, and promotion of, human rights principles and frameworks. Given the extent to which Goals were able to influence the sustainable development discourse and the mobilization of resources, these advancements have great potential. It is in this respect that the 2030 Agenda represents a historic opportunity that Member States, the international community, the business community and other stakeholders must seek to maximize.

41. The first way in which the 2030 Agenda improves upon the Millennium Development Goals in relation to contemporary forms of slavery is its inclusion of target 8.7, "take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms". The issue of contemporary forms of slavery was not a priority at the beginning of the three-year consultative process that preceded the adoption of the Goals and, as discussed above, was not included in the Millennium Development Goals. Its inclusion as a specific target followed sustained advocacy efforts, initiated in 2007, by a number of actors. The Special Rapporteur commends these efforts and the responsiveness of the consultative process in this

[35] ILO, *World Employment Social* Outlook; see also E/CN.6/2017/3.
[36] ILO, *World Employment Social* Outlook.
[37] See A/HRC/32/32/Add.2.
[38] See A/HRC/33/46/Add.1.
[39] See A/HRC/30/35/Add.1.

respect. The historic inclusion of this specific target has the potential to ensure resource mobilization to advance slavery eradication efforts and develop normative links between policy dialogues on contemporary forms of slavery and development.

42. Furthermore, that the 2030 Agenda is explicitly grounded in human rights standards and the establishment of the responsibilities of States to respect, protect and promote human rights will increase the ability of the prevailing development framework to respond to the causes and consequences of contemporary forms of slavery. The 2030 Agenda was adopted through General Assembly resolution 70/1, in paragraph 10 of which it is stated:

> The new Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome Document. It is informed by other instruments such as the Declaration on the Right to Development.

43. In paragraph 18, it is stated that the Agenda is "to be implemented in a manner that is consistent with the rights and obligations of States under international law." It was also stated in the preamble that the 2030 Agenda aimed to "realize the human rights of all" and in paragraph 19 emphasis was laid on "the responsibilities of all States ... to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status".

44. The stronger commitment to human rights principles and standards outlined in the 2030 Agenda is also reflected in the contents of the Goals and targets. The number of economic, social and cultural issues reflected in the Goals and targets is much larger and less selective, for example, the inclusion of many civil and political rights issues in Goal 16 on peaceful and inclusive societies. Furthermore, the targets more closely reflect corresponding human rights standards. For example, in contrast to the narrow measurement of the Millennium Development Goal on education, discussed above in paragraph 19, Sustainable Development Goal 4, on quality education, is measured using targets and indicators that address issues relating to availability, accessibility, affordability and quality.

45. The 2030 Agenda also builds upon the framework of the Millennium Development Goals in relation to its ability to contribute by making a strong commitment to combating inequalities and discrimination, as reflected in the overall commitment to "leave no one behind", as well as in the contents of the Goals, with both the inclusion of Goal 5, achieve gender equality and empower all women and girls, and Goal 10, reduce inequalities within and among countries. The Sustainable Development Goals also reflect human rights norms and principles in that they are established as indivisible and interconnected throughout resolution 70/1. The resolution also provides protection for vulnerable groups, including women and girls, children, persons with disabilities, people living with HIV/AIDS, older persons, indigenous peoples, refugees and internally displaced persons.

46. These developments, in relation to the general ability of the Sustainable Development Goals framework to make a contribution to the universal implementation of human rights, also have the potential to bolster efforts to eradicate contemporary forms of slavery. Conceptualizing the Goals relating to gender equality and education in a human rights-compliant way increases their potential to significantly reduce vulnerability to contemporary forms of slavery. The inclusion of targets related to access to justice within Goal 16, on peace, justice and strong institutions also offers the possibility that the implementation of the Goals

can contribute to redressing human rights abuses relating to contemporary forms of slavery. As will be outlined in the thematic report by the Special Rapporteur to the Human Rights Council at its thirty-sixth session, access to justice and remedy for victims of contemporary forms of slavery is an essential component of efforts to eradicate the phenomena. Effective access to justice and remedy helps the process of rehabilitation and reintegration of victims, prevents revictimization and can create disincentives to future violations among those who may seek to ruthlessly exploit vulnerable individuals. Furthermore, the inclusion of Goals, such as Goal 1 (end poverty), Goal 5 (achieve gender equality and empower all women and girls), Goal 8 (promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all) and Goal 10 (reduce inequality within and among countries) has the potential to address the socioeconomic drivers of the contemporary forms of slavery discussed above.

47. This is not to say that the Sustainable Development Goals are perfect, neither in relation to human rights nor to contemporary forms of slavery. In relation to the latter, while the inclusion of the catch-all term "modern slavery" in target 8.7 allows for a broad interpretation of what is expected of States and other actors, the inclusion of the target under Goal 8, on decent work and economic growth creates the risk that traditional forms of slavery will be secondary to labour market violations in implementation efforts. In addition, the vulnerability of persons of slave descent was not recognized in the sustainable development framework in the same way as that of other minority groups.

48. There are weaknesses and gaps in relation to the broader ability of the Goals to tackle the causes and consequences of contemporary slavery through improved adherence to human rights norms and principles. For example, human rights language is not integrated into the Goals. In addition, the vulnerability of minorities is not explicitly addressed in the same way as that of other groups. Also, how to ensure policy coherence and indivisibility, as well as protection against the risk that the implementation of Goals will have adverse secondary effects on human rights, is not effectively articulated. Nevertheless, the specific inclusion of a target on slavery and broader improvements in relation to human rights in the 2030 Agenda are a cause for celebration and provide a historic opportunity for Member States, the international community, businesses and other stakeholders to further efforts to fully eradicate contemporary forms of slavery.

D. Implementation of the 2030 Agenda

49. The 2030 Agenda is ambitious and far-reaching. It raises serious questions, however, about the availability of capacity and resources to implement its Goals and targets. Estimates have suggested that an amount of between $3 trillion and $5 trillion needs to be mobilized to effectively finance the implementation of the 2030 Agenda.[40] It is vital that the resources be allocated in full so that the Goals and targets are all implemented successfully as interdependent, mutually reinforcing and interlinked development outcomes, as none can be achieved in a vacuum from the others. States and other stakeholders must avoid cherry-picking those that are the easiest and most politically expedient for them to implement, as a group of special procedures experts warned in a press release published in July 2016.[41] It is essential that States and other actors align the financing for the 2030 Agenda with their

[40] United Nations Conference on Trade and Development, "UNCTAD: investing in Sustainable Development Goals: part 1 — action plan for private investments in SDGs" (Geneva, 2015).

[41] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20262#sthash.NJFbdQo3.dpuf.

obligations under international law to allocate the maximum available resources to the progressive realization of economic, social and cultural rights. Policy coherence between the action taken to implement different goals, as well as the initiatives to implement the 2030 Agenda and related policy areas, including those on trade and investment, border management and migration, must also be achieved. It is therefore necessary for States, the private sector, donors and the international community to work together to mobilize the resources needed in order to avoid selectivity in relation to the targets and thus ensure the overall success of the implementation of the Agenda and the maximization of its potential to fully eradicate contemporary forms of slavery.

50. As established in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, the development financing plan agreed upon by States ahead of the formal endorsement of the 2030 Agenda, States bear the primary responsibility for financing development within their own countries, including the implementation of target 8.7 of the Sustainable Development Goals. It is recognized that States have different capacities and constraints when it comes to achieving the Goals and many countries face a challenging fiscal environment. There are many ways, however, that countries can mobilize more resources for development, human rights and the full and effective eradication of contemporary forms of slavery. Governments worldwide are estimated to lose $3.1 trillion annually to tax evasion, equivalent to about half of the world's total expenditure on health care.[42] Furthermore, it is estimated that between $21 trillion and $32 trillion sits in offshore tax havens.[43] The impact that such resources could have on development, human rights and the full and effective eradication of contemporary forms of slavery is profound. Tackling corruption and tax evasion is essential in both developing and higher-income countries. Developing countries can be highly vulnerable to the loss of tax revenue. The amount lost is proportionally high relative to the amount being spent on public services and such countries often have low tax bases, owing to inefficiencies in policies and systems, and in many cases, a significant degree of their labour market falling within the informal sector. If all developing countries could mobilize just 15 per cent of their national income as tax revenue, an additional $198 billion in revenue could be secured and utilized to implement the goals relating to sustainable development.[44] Tax evasion also takes resources from high-income countries that lose more in absolute terms. Given the increasingly constrained fiscal environment conditioned by neo-liberal economic doctrines and the financial and economic crash of 2008, as well as severe inequality in many countries, these are precious resources that could contribute to improved social protection floors for the most vulnerable, which can include victims of contemporary forms of slavery, and/or providing additional official development assistance to developing countries.

51. Another resource trap that is likely to significantly divert resources away from the implementation of the Sustainable Development Goals and undermine policy coherence in relation to sustainable development is sovereign debt. The proportion of government revenue that is spent on foreign debt payments is significant. For example, in 2015, El Salvador and Jamaica spent 18 and 20 per cent, respectively, on debt payments because they do not meet the criteria for debt-relief schemes.[45] Regular external payments divert significant resources away from developing and middle-income countries that could be spent on public services and development programmes. Governments also regularly respond to external debt crises through

[42] See HR/PUB/13/...
[43] Khan, *Delivering Development Justice*.
[44] See HR/PUB/13/1.
[45] Khan, *Delivering Development Justice*.

cuts and freezes in public sector spending, austerity programmes and the rationalization of social protection floors, including, for example, health care and minimum wage provisions.

52. Governments should also consider the issue of military spending. Global military spending in 2016 is estimated to have increased by 0.4 per cent to $1.69 trillion.[46] Considering options for global disarmament and the redistribution of funds for the implementation of the Goals could significantly advance the 2030 Agenda not only through resource mobilization, but also through its contribution to strengthening universal peace.

53. While the primary responsibility for the implementation of the Goals rests with national Governments, the private sector and donors have an important role to play in providing and mobilizing resources. Businesses played a strong role in the development of the Goals, including through a high-level panel that allowed companies to participate in the consultative process. Accordingly, expectations are high for the role of the private sector in the implementation of the Goals. Furthermore, awareness in the private sector of the Goals is significant: research conducted by PricewaterhouseCoopers found that 92 per cent of businesses surveyed were aware of the Goals, compared with 33 per cent of citizens.[47] However, the same survey also suggested a lack of consensus on the implementation of the Goals, preference between Goals and a lack of willingness to engage on issues that were not aligned with their corporate interests. There was a readiness among the businesses surveyed to cherry-pick the Goals that did not fit into their corporate priorities or pushed them outside their comfort zone. Goal 8 on decent work and economic growth, which includes target 8.7, was ranked highest among those surveyed both in terms of perceived impact of businesses on the Goal and on how the Goal could constitute a business opportunity.[48] The Special Rapporteur is of the opinion that the business sector has much to offer in the implementation of target 8.7 and in broader slavery eradication efforts. It is essential, however, that private sector actors ensure respect for human rights in both their contributions to the 2030 Agenda and to broader business activities. Such a holistic and rights-based approach is in line with the obligations of businesses under pillar II of the corporate responsibility to respect human rights and other relevant principles of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.[49]

54. The successful implementation of the 2030 Agenda and the achievement of its potential in relation to eradicating contemporary forms of slavery are not just about the availability of capacity and resources. A significant degree of political will is needed to challenge the implicit and explicit power structures that often support the continuing prevalence of contemporary forms of slavery. The complexities of balancing resources and input from different stakeholders, ensuring overall policy coherence in related policies and programmes and galvanizing the political will to challenge implicit and explicit power structures require international coordination, cooperation and leadership.

55. In response, multi-stakeholder initiatives have emerged to galvanize support and resources for particular Goals and targets. An example is Alliance 8.7, a global partnership committed to taking immediate and effective measures to eradicate forced labour, modern slavery, trafficking in persons and child labour, in accordance

[46] See www.sipri.org/research/armament-and-disarmament/arms-transfers-and-military-spending/military-expenditure.

[47] PwC, "Make it your business: engaging with the Sustainable Development Goals", 2015.

[48] Ibid.

[49] A/HRC/17/31, annex.

with target 8.7 of the Sustainable Development Goals. Alliance 8.7 aims to bring together a range of stakeholders, including Governments, the United Nations, the business sector and civil society to accelerate action on target 8.7, conduct research and share knowledge, drive innovation and increase and leverage resources. The Alliance has only recently been set up, but the Special Rapporteur intends to continue her engagement with it and encourages all relevant stakeholders to do likewise and support its work. The Special Rapporteur is also aware of other multi-stakeholder alliances to support the implementation of the Goals, such as the Global Partnership to End Violence against Children, the goal of which is to implement target 16.2 of the Sustainable Development Goals. Such initiatives have a significant role to play in the implementation of the Sustainable Development Goals. There is, however, a concern that the way that such initiatives are emerging in response to specific targets could create fragmentation in the implementation efforts and allow for cherry-picking of Goals.

III. Conclusions and recommendations

A. Achieving human rights-based sustainable development and eradicating all forms of contemporary slavery

56. **Ending all forms of contemporary forms of slavery and achieving target 8.7 of the Sustainable Development Goals require a multifaceted approach, including the development of comprehensive national responses to contemporary forms of slavery, which should combine the effective rule of law, comprehensive national legal frameworks, robust institutional and policy frameworks, the prohibition and elimination of discrimination, effective child protection, strong labour market protection and regulation, effective oversight of the business sector and full and equitable access to justice.**

57. **In order for national approaches to slavery eradication to be effective, they must also be rooted in the successful achievement of sustainable development based upon universal respect for human rights norms and principles. While national legislative and policy measures to end contemporary forms of slavery are very important, they will not be effective in eradicating all contemporary forms of slavery if the systemic, structural and global socioeconomic trends that enable its widespread prevalence are not addressed. Ending contemporary forms of slavery is therefore an integral part of the broader struggle to combat poverty, underdevelopment and gender inequality and achieve human rights-based development and justice for all.**

58. **Advancement towards the full and effective implementation of human rights-based sustainable development does not necessarily require a reversal of globalization. Increasing global integration has the potential to support efforts to ensure the full eradication of all forms of contemporary slavery and such advancement. However, fundamental shifts in the way that Governments regulate the processes that contribute to globalization are needed to counter the negative socioeconomic trends and make progress towards these goals. These shifts must be towards a model of global governance based upon equality, freedom from poverty, effective access to decent work, gender parity, and, above all else, respect for the fundamental human rights of all citizens.**

B. Recommendations to Member States

59. **To tackle the socioeconomic drivers of contemporary forms of slavery to achieve target 8.7 of the Sustainable Development Goals and implement the 2030 Agenda, Member States should:**

(a) **Take immediate steps towards addressing inequality as part of efforts to effectively implement Sustainable Development Goal 10, on reducing inequalities within and between countries;**

(b) **Accelerate efforts to put an end to poverty in line with Sustainable Development Goal 1, on ending poverty;**

(c) **Work with ILO, the business sector and other partners to develop new opportunities for decent work, as part of the efforts to implement Sustainable Development Goal 8, on economic growth and decent work for all;**

(d) **Ensure that labour regulation systems are adequate to protect labour rights and promote safe and secure working environments in line with efforts to fully and effectively implement Goal 8;**

(e) **Increase and strengthen measures to accelerate progress towards gender parity and empowerment of women and girls in line with Sustainable Development Goal 5, on gender equality;**

(f) **Ensure policy coherence between all efforts to tackle the socioeconomic drivers of contemporary forms of slavery as part of the full and effective implementation of the Goals and other areas of related policy, including trade and investment, migration and border management;**

(g) **Establish comprehensive national approaches to the full and effective eradication of contemporary forms of slavery to achieve target 8.7 of the Sustainable Development Goals;**

(h) **Establish national systems of rule of law that protect the human rights of all people, administered by competent judges, prosecutors and law enforcement officers who are trained in eradicating contemporary forms of slavery;**

(i) **Ensure that contemporary forms of slavery are criminalized as specific crimes within national legal frameworks, with penalties commensurate with the crimes;**

(j) **Develop robust institutional and policy frameworks that ensure the effective implementation of laws that criminalize all contemporary forms of slavery;**

(k) **Take all steps necessary to tackle the root causes and manifestations of discrimination against minority groups who are vulnerable to contemporary forms of slavery, including women, children, indigenous peoples, people perceived as being of low caste status and migrant workers, as another fundamental part of the effective implementation of Goal 10;**

(l) **Enact measures to uphold the rights of children and protect them from child labour and enslavement, including sexual exploitation, forced recruitment as child soldiers, forced marriage, forced begging and domestic servitude;**

(m) **Remove constraints on establishing democratic trade unions and ensure that the rights of workers and human rights defenders to freely associate are consistently upheld;**

(n) **Establish and enforce robust national systems of professional labour inspection to identify cases of contemporary forms of slavery;**

(o) **Develop effective oversight of businesses, including by establishing clear and effective supply-chain transparency requirements that can facilitate the detection and remedy of contemporary forms of slavery;**

(p) **Explicitly prohibit fraudulent and abusive recruitment practices that are one of the main causes of contemporary forms of slavery in supply chains and adopt measures to regulate recruitment;**

(q) **Develop a comprehensive and multifaceted approach to ensuring that victims of contemporary forms of slavery can have access to justice and remedy for harm suffered, in line with the recommendations made by the Special Rapporteur in her thematic report to the Human Rights Council at its thirty-sixth session.**

60. **To achieve international coordination and cooperation on target 8.7 of the Sustainable Development Goals and the implementation of the 2030 Agenda, Member States should also:**

(a) **Engage actively with, and provide technical and financial support to, Alliance 8.7 in order to support the effective implementation of target 8.7 of the Sustainable Development Goals;**

(b) **Develop robust resource mobilization strategies to ensure that the necessary resources are available to invest in the implementation of Goal 8 and all the Sustainable Development Goals. Such strategies should consider options for tackling tax evasion, reviewing military spending and increasing debt relief;**

(c) **Ensure policy coherence and coordination between the multi-stakeholder initiatives developed to support the full and effective implementation of the Goals;**

(d) **Invest in developing indicators as part of effective, participatory and transparent monitoring and evaluation systems to monitor implementation of Goal 8, including target 8.7, and all the other Goals and targets.**

C. Recommendations to other stakeholders

61. **United Nations agencies should:**

(a) **Facilitate cooperation and coordination between multi-stakeholder initiatives to implement the targets of the Goals;**

(b) **Ensure that effective programmes are in place to address the socioeconomic trends that undermine sustainable development and enable contemporary forms of slavery;**

(c) **Support countries in developing national action plans for the implementation of the Goals, including Goal 8 and target 8.7, including clear plans for the mobilization of adequate resources;**

(d) **Develop specific in-country programmes to ensure the effective implementation of the Goals, including Goal 8 and target 8.7.**

62. **The private sector should:**

(a) **Make financial, resource and leadership contributions to the implementation of the Goals, including Goal 8 and target 8.7;**

(b) **Ensure full respect for human rights in the context of contributing to the Goals. They should take a human rights-based approach to implementation and avoid cherry-picking the targets to which they contribute;**

(c) **Ensure, as a core part of their contributions to the implementation of Sustainable Development Goals, full respect for human rights standards in all their business activities as established under pillar II of the Guiding Principles on Business and Human Rights. In particular relevance to contemporary forms of slavery and achieving target 8.7, businesses should establish continuous human rights due diligence in all business activities within their supply chains;**

(d) **Engage actively, alongside Member States, with Alliance 8.7. They should make substantive, financial and resource contributions to Alliance 8.7 to ensure an active contribution to the successful implementation of target 8.7.**

63. **Donors should:**

(a) **Take a human rights-based approach to providing support for the implementation of the Sustainable Development Goals including ensuring human rights due diligence in relation to all projects that are funded;**

(b) **Ensure that slavery eradication, as a fundamental part of the 2030 Agenda for Sustainable Development, is prioritized within sustainable development programmes and initiatives;**

(c) **Support programmes that tackle the socioeconomic trends that undermine the achievement of human rights-based sustainable development and enable contemporary forms of slavery;**

(d) **Actively engage with and provide support to Alliance 8.7, as well as other multi-stakeholder initiatives designed to facilitate effective implementation of the 2030 Agenda.**

64. **Civil society organizations should:**

(a) **Develop programmes and broader efforts to implement Goal 8, target 8.7 and the broader Goals;**

(b) **Contribute to Alliance 8.7 and other multi-stakeholder initiatives designed to ensure the implementation of the Goals.**